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PRINCIPLES AND PROBLEMS

OF

INDIAN LABOUR LEGISLATION

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7. Plantation Labour in India, (Calcutta, 1931).
8. Woman Labour in India.
   (A reprint of two articles in *International Labour Review*, October and November, 1931).
9. Child Labour in India.
   (A reprint of two articles in *International Labour Review*, December 1933 and January 1934).

Calcutta University Special Readership Lectures

PRINCIPLES AND PROBLEMS
OF
INDIAN LABOUR LEGISLATION

BY

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PUBLISHED BY THE
UNIVERSITY OF CALCUTTA
1938

PRINTED IN INDIA

PRINTED AND PUBLISHED BY BHUPENDRALAL BANERJEE
AT THE CALCUTTA UNIVERSITY PRESS, SENATE HOUSE, CALCUTTA

Reg. No. 1113B—December, 1938—E

To

The Memory of My Younger Brother

NALINI KANTA DAS

PREFACE

Principles and Problems of Indian Labour Legislation formed the subject-matter of the author's Special Readership Lectures at the Calcutta University in January, 1937. Since then a few measures, which were under consideration by both the Central and Provincial legislatures, have been passed and the treatise has been brought up to the 1st April, 1937, when the newly created autonomous provinces under the new Constitution were inaugurated. The date has, however, a greater significance than that indicated by the mere constitutional change in the Government of India. Under the new Constitution, Provincial Governments have been invested with concurrent power with the Federal Government in some aspects of labour legislation, which was the exclusive power of the Central Government under the old Constitution. Moreover, with the establishment of Federation, national labour legislation will be the concern of the Federal Government and be applicable to the whole of India consisting of British Provinces and Indian States.

In connection with his studies in labour conditions in plantations and factories in 1912 and 1913 respectively, the author came to realise the importance of legislation as a means of ameliorat-

ing the working and living conditions not only of those who actually worked under it, but also of the general masses of which they formed an important part. Legislative measures in respect of labour in different industries have since then been one of the subject-matters of his studies, the parts of which were published in *Factory Legislation in India*, presented as doctoral dissertation in the University of Wisconsin in 1916, and also in *Plantation Labour in India* in 1931. In the meantime a resume of his studies in legislative measures relating to labour in organised industry as a whole was also published as " Labour Legislation in India " in the *International Labour Review* in 1930 and also as "The Rise of Labour Legislation in India " in the *Asiatic Review* in 1936.

In his former studies, the author has attempted to show various legislative measures as constituting important social institutions in modern India. With a brief survey of its growth and procedure as the background, the author has devoted himself, in the present study, to the enunciation of the fundamental principles and to the elucidation of the principal problems of Indian labour legislation with a view to securing its continued progress and indicated, in conclusion, its significance upon the welfare of the working classes and upon the progress of the whole society.

The author has often made references to the report including the evidence of the Royal Commis-

sion on labour in India even in support of the arguments advanced and conclusions arrived at in his former works as they are the most up-to-date and authoritative documents and are likely to carry greater weight specially with those who are responsible for the enactment and amendment of labour legislation. He might, however, add that his works on labour and especially manuscript on the elaborate and exhaustive survey of labour conditions in all classes of organised industry are known to have been of considerable value to the Royal Commission. A word might also be added to explain the references to his own works in the footnotes of the treatise. When, over a quarter of a century ago, the author realised the significance of the labour question in the social regeneration of India, to work for which had been his dream from early youth, he made a tentative programme of a series of objective and comprehensive, though concise, studies including monographs and surveys on plantation labour, factory labour, child labour, woman labour, labour legislation and the labour movement, which would serve as positive background for the development of intelligent opinion and active interest of the public in respect of Indian labour. Although he was not able to carry out the scheme as had originally been planned for the lack of time and means, the author is satisfied to say that all these treatises were published in time to do pioneer work in their respective fields.

The author would also like to mention that the present treatise was concluded in a rather difficult period in the history of Indian labour legislation. Self-governing Provincial Governments, specially those under the auspices of the Indian National Congress, has not been long enough in their offices to develop any labour policy. Moreover, except for the fact that all Federal labour subjects and International labour Conventions will form the bases of Federal labour legislation, nothing is exactly known as to the jurisdiction of the Federal Government over other labour subjects in Indian States until the Instruments of Accession of the States defining the conditions and limitations therein under Section 106 of the Government of India Act of 1935 are published and the Federation is actually established.

In conclusion, the author takes this opportunity to express his sincere thanks to the University of Calcutta for kindly inviting him to deliver its Readership Lectures on the Indian labour question. He also wishes to acknowledge his indebtedness to his wife, Dr. Sonya Ruth Das, for reading the manuscript and giving valuable criticisms and constructive suggestions.

GENEVA,
October, 1937. RAJANI KANTA DAS

CONTENTS

INTRODUCTORY

Labour Legislation is a most dynamic institution in modern society. From a simple restraint on child labour in Great Britain less than a century and a half ago, labour legislation has become an important agency of the State for the regulation of working—and often living—conditions of men and women throughout the world, as indicated by the rising number and variety of International Labour Conventions and also by the adherence thereto of most important nations. This rapid development of labour legislation is due to the fact that it is an integral part of modern social organisation. Like slave labour in ancient times, serf labour in mediaeval times and indentured labour in transitional periods, the relics of all of which are still to be found in many backward countries, free labour is the direct result of growing industrialism and democracy, and labour legislation is the institution through which the State protects the interests, and ameliorates the moral and material conditions, of the working classes.

There is a fundamental difference between the law regulating labour under slavery, serfdom and indenture and that regulating labour under free contract. While the main object of the former was

to safeguard the interests of the employer, whether master, lord or capitalist, against desertion, idleness and neglect of work on the part of the labourer who was either his personal property or for the recruitment and employment of whom he had often to undergo high expenses, modern labour legislation aims at safeguarding the interests of the worker in modern industry, which is often injurious to his health and safety and in which neither he nor often his employer is able to devise any protective measure. With the growth of democracy, the focus of attention has been transferred from property to person and has been followed by changes in social attitude and the point of approach in labour legislation.

An essential feature of modern labour legislation is its continuity. As an institution of ever-growing society, its very existence implies continued growth. What is more important is, however, not mere growth but progress, which depends upon its ability to bring continuously within the reach of the working classes various social achievements in the form of better health, greater safety, shorter hours, steadier employment and a higher standard of living, thus offering them more facilities for moral and spiritual development Labour legislation can realise this object only through continued evaluation of its principles in the light of progress in art, science and philosophy, as well as in discovery and invention.

Universality is still another feature of labour legislation. It is due to the fact that it is the direct result of modern industrialism, which has evolved through the gradual mastery of man over his physical and social environments, thus facilitating the use of mechanical power and machinery to the industrial system on the one hand and the organisation of accumulated wealth and labour forces for productive purposes on the other. It is the growth of industrialism in most countries which has brought about similar labour conditions and led to the enactment of more or less similar labour measures. But, in spite of its universality, both the nature and function of labour legislation are subject to the local condition, as determined by physical environment, social conditions, industrial development and political organisation, all of which must be taken into consideration in the enactment of labour legislation in each country.

Labour legislation presents a number of complex problems. An institution which owes its origin and growth to a variety of social, political and economic forces, deals with the life and labour of a vast proportion of the population and often comes in direct conflict with vested interests, cannot but be complicated. Moreover, the very fact that both its enactment and enforcement depend upon Government, which may be much more easily influenced by employers than by workers, also adds to its difficulty. But the continued

attempts towards the solution of these problems give momentum to the movement for labour legislation.

Within the past three-quarters of a century, labour legislation has made considerable progress in India. Although it began with the indenture system, which has recently been abolished, Indian legislation has also regulated free labour in factories since the early 80's and has extended its scope to include labour conditions in other organised and semi-organised industries and has thus become a most vital social institution in modern India. Its progress depends, however, on the constant evaluation of its principles and their application to different labour measures as well as upon the continued elucidation of its problems and the efforts towards their solution.

CHAPTER I

HISTORICAL BACKGROUND[1]

The origin of labour legislation in India may be traced back to the early part of the last century when labour under penal sanction was introduced by the Bengal Regulation VII of 1819. It was followed in 1837 by the regulation, under the indenture system, of the recruitment and employment of Indian emigrants for British Colonies, which had, soon after the abolition of slavery in 1834, turned to India as a source of cheap labour supply. Although the former was enacted early in the century and the latter only to facilitate emigration to foreign colonies, both of them had great influence upon the development of labour legislation in later years, especially in connection with the recruitment of Assam tea-garden labour.

From the very beginning, labour legislation in India has developed in connection with the welfare of workers in some specific industry, but in recent years there has also grown labour legislation with reference to the welfare of workers in general irrespective of the industry in which they are employed.

[1] *Cf.* Author's article on "Labour Legislation in India," *International Labour Review*, November, 1930; "The Rise of Labour Legislation in India", *Asiatic Review*, October, 1936.

Legislative measures for the regulation of the working and the living conditions of workers may thus be classified under two main headings namely, (1) the specific, and (2) the general.

As in the case of British India, labour legislation has also made considerable progress in Indian States, which as feudatory bodies owing allegiance directly to the British Crown or Paramount Power, remain outside British India in all internal affairs. But under the new Constitution, which has already established autonomous governments in the provinces and has also provided for the federation of the States with the provinces, all labour questions of national importance will come under the proposed Federal Government. Labour legislation in Indian States thus also deserves careful consideration.

1. Specific Labour Legislation

Specific labour legislation relates to conditions of work in such industries as plantations, factories, mines and transport. Beginning with the early sixties, these specific legislative measures have grown independently, and each has become an important social institution. In recent years, there has grown, however, a tendency towards uniformity in some provisions of these measures, e. g., minimum age and hours of work. This is due partly to the

influence of the International Labour Conference which has formulated Conventions with reference to workers in all industries, and partly to the rise of general labour legislation within the country itself, which deals with such subjects as compensation and trade unionism relating to workers in organised industry as a whole.

Plantation Legislation[1]

Plantation was the first organised industry in India in which workers came under legislative control. Plantation legislation up to the present relates directly only to those measures which regulate the recruitment and forwarding of labour from the place of birth to the place of work in Assam tea-gardens and is really emigration legislation and the present Act is called the Tea Districts Emigrant Labour Act, 1932. But it is more than emigration legislation inasmuch as it controls sanitary conditions, hours of work and payment of wages, thus regulating the most important phases of working and living conditions. The main object of legislative measures for labour emigration for plantations was especially in the beginning, the control of contract between planters and labourers. While providing the latter with steady work, adequate

[1] *Cf.* Author's *Plantation Labour in India*, Calcutta, 1931. This and subsequent sections of this chapter are mostly the résumés of the author's studies in Indian labour legislation, which are fully documented. All references have therefore been omitted therefrom.

wages and sanitary conditions, Government attempted to guarantee the former the security of the services of their labour force, for the recruitment and transportation of which they had often to spend considerable sums of money.

Plantation legislation began to develop in connection with the cultivation of tea in Assam which was one of the earliest of the plantation industries. Although experiments were made earlier in the nineteenth century, real progress in tea planting began about 1851. By 1859, 51 tea-gardens had come into existence in different parts of the country but most of them were located in Assam. The scarcity of the population in the province and its distance from the more densely populated areas made the supply of labour to tea-gardens both complicated and expensive, and there grew up a body of contractors or professional recruiters, who resorted to all kinds of devices to recruit and forward labour from Bengal and other provinces to Assam. This uncontrolled recruitment by speculators gave rise to great abuses, to control which there were passed by both the central and local Governments a series of legislative measures from 1863 to 1901. By these measures, recruiters were licensed, emigrants registered, sanitation provided on the way to labour districts, the period of labour contract fixed at from three to five years, and the scale of wages determined. Desertion and indolence on the part of labourers under

contract were also made punishable by law, and planters were empowered to arrest all absconders without warrant. In short, workers on the Assam tea gardens were brought completely under the indenture system.

Besides the Assam Labour Emigration Acts there were also other Acts and Codes which sanctioned penalties for the breach of labour contracts. The Workmen's Breach of Contract Act of 1859, originally enacted for "the punishment of breaches of contract by artificers, workmen and labourers in certain cases" as well as sections 490 and 492 of the Penal Code of 1860 were resorted to by planters for the employment of their labourers, and the Madras Government had also passed the Planters' Labour Act, 1903, providing criminal penalties for breach of contract. A temporary Act was also passed by Coorg in 1926 to replace the Workmen's Breach of Contract Act of 1859 for the same purpose.

The Assam Labour and Emigration Act of 1901 was amended in 1908 and 1915 by which the indenture system and the recruitment by contractors were abolished and provisions were made for the creation of an Assam Labour Board for the supervision of recruitment by garden *sardars* under local agents. Other Acts and Codes providing penalties for criminal breach of contract were also abolished between 1925 and 1929, and the Coorg Act came to an end in 1931.

In spite of the amendment of 1908 and 1915, some of the defects of the Assam Labour and Emigration Act of 1901 regarding the recruitment of labour for Assam still remained and the Government of India took steps for its further amendment in 1926 and even drafted the Assam Recruitment Bill in 1928. In the meantime, the Royal Commission on Labour in India, appointed in 1929 for investigating labour conditions in industrial undertakings and plantations and making recommendations, made its report in 1931. The Commission found the Act of 1901 to be unintelligible to almost all people, obsolete in many parts, and obstructive to the free flow of labour to Assam tea-gardens and made recommendations for the enactment of a new Act with the threefold object of (1) the freer movement of labour, (2) the greater security to labourers, and (3) the better administration of the law. These recommendations were incorporated by the Government of India in the Tea Districts Emigrant Labour Act of 1932 which came into force on 1 October, 1933. The main provisions of the Act are as follows :—

(1) Subject to the control of the Government of India, local Governments are granted powers to control the forwarding or both recruitment and forwarding of assisted emigrants (*i.e.*, those emigrants who secured assistance of any kind in going to Assam) by locally licensed forwarding

agents or recruiters and certified garden *sardars* through prescribed routes with proper arrangements for food, shelter and medical inspection. The application of these provisions may be partially or completely relaxed in case of certain areas.

(2) Every emigrant labourer, that is, a person who has last entered Assam as an assisted emigrant and was employed on a tea estate, shall have the right of repatriation at the expense of the employer after three years of service or even earlier in certain contingencies or any other sufficient cause.

(3) The exercise of the power and the discharge of the duties under this Act should be conferred upon a Controller of Emigrant Labour and one or more of the deputies to be appointed by the Governor-General in Council and to be maintained by an annual cess to be paid by employers.

The Act is intended to apply only to emigration for work on tea plantations, but power is granted to the local Governments to extend its application to other industries in Assam. Children under 16 and married women cannot be assisted for emigration unless the former are accompanied by their parents or guardians and the latter have the consent of their husbands. The Assam Labour Board was abolished and the Controller of Emigrant Labour was appointed immediately after the Act came into force.

Factory Legislation [1]

The most important labour legislation in India, however, relates to factories. The first cotton mill was established in Bombay in 1851 and by 1872-73, there were 18 cotton mills employing about 10,000 workers, many of whom were women and children. The rapid growth of the cotton mill industry in Bombay gave rise to the spirit of rivalry among the Lancashire cotton manufacturers and their agitation for the control of labour conditions in India, which was supported by philanthropists both in England and in India, led to the appointment of a Factory Commission in 1875 and to the enactment of the first Indian Factories Act in 1881. This Act defined " factory " to be any premises using power machinery and employing 100 persons or more for four months or more in the year, and " child " to be any young person below 12 years of age, and fixed the minimum and maximum ages for employment at seven and twelve respectively, and the hours of work at nine a day with an interval for rest of one hour, and a weekly holiday.

The insufficient protection of children and the failure to regulate women's labour were among the causes of the revival of agitation for the immediate amendment of the first Act, and the

[1] *Cf. Author's Factory Legislation in India*, Chapters ii-v.

appointment of Factory Commissions in 1884 and 1890. On the recommendations of the latter Commission, the Factories Act of 1881 was amended in 1891. By this amendment, the definition of "factory" was extended to include all undertakings employing 50 persons or more and local Governments were granted powers to apply it to premises employing 20 persons or more. The hours of work for women were limited to 11 a day with an interval of rest of an hour and a half or proportionately less for a less number of hours. "Child" was defined to be any person below 14 and the minimum and maximum age limits for employment of children were raised to 9 and 14 respectively, and their hours of work were limited to 7 a day, with an interval or intervals of rest amounting in aggregate to half an hour.

The amendment of 1891 was followed by prolonged depression in the cotton mill industry, but a boom in 1904-05 led to excessive hours of work and raised the question of regulating the hours of work of adult male workers. Investigation into the matter was made by a Textile Commission in 1906 and a Factory Labour Commission in 1907 ; and, on their recommendations, the Government of India passed a new Indian Factories Act in 1911. The main provisions of the Act were as follows :—(1) the hours of work of men and children in textile factories were limited to 12

and 6 a day respectively; (2) children were required to produce a certificate of physical fitness in addition to that of age; and (3) women and children were prohibited from employment in some dangerous work.

The war broke out soon after the Factories Act of 1911 came into force. With the coming of peace there was inaugurated the International Labour Organisation, as a part of the League of Nations, under the Treaty of Versailles in 1919. Under its auspices, the first International Labour Conference was held at Washington, D.C., in 1919, and, among other things, Conventions were adopted on hours, minimum age, night work of women and night work of young persons. The Hours Convention, while adopting a 48-hour week and an 8-hour day for all countries, accepted a 57-hour week for Japan and a 60-hour week for India. The Minimum Age Convention fixed 14 years as the minimum age for the admission of children to employment in industrial occupations for all countries except Japan and India, for which the age of 12 years was provided; in the case of Japan, however, it was provided that children over 12 years of age might only be admitted to employment if they had finished the course of studies in the elementary school. The Night Work of Women Convention prohibited the employment of all women and girls at night, although it permitted India to suspend the prohibition in respect of

industrial undertakings other than factories as defined by the Indian Factories Act. The Night Work of Young Persons Convention, while prohibiting the employment of young persons under 18 years of age at night, fixed the ages of 16 and 14 years for Japan and India respectively, and in the case of India, limited the application of the Convention to factories only.

Of these Conventions, those relating to hours of work and night work of women and young persons were ratified by the Government of India in 1921, while the principles of the Minimum Age Convention, though not ratified, were accepted as regards factories covered by the Indian Factories Act. In consequence, the Indian Factories Act of 1911 was amended in 1922, making some important changes in its provisions.

The most important of these amendments were as follows :—(1) the scope of the Act was extended to include all industrial undertakings using mechanical power and employing 20 or more persons, and to give local Governments the power to apply the law, by notification, to establishments employing 10 or more persons and working with or without mechanical power ; (2) the hours of work for all adult workers, including both men and women, were restricted to 11 in any one day and 60 in any one week ; (3) "child" was defined to be a person who was under 15 years of age, and the minimum and maximum ages for the

employment of children were raised to 12 and 15 years respectively, and their hours of work limited to 6 a day; moreover, in addition to medical examination for age and physical fitness for admission to employment in factories, children were required to undergo re-examination for continuing work, if thought necessary by an inspector, and their night work was prohibited; (4) all workers were granted a period of one hour's rest for work exceeding 6 hours, which could be divided into two periods at the option of the workers; they were also granted a day of rest in a week, and no worker was permitted to go without a holiday for more than 10 days at a time; (5) in case of overtime, workers should receive at least one and a quarter times the normal rate of pay; (6) women and young persons under 18 were prohibited from employment in certain lead processes; (7) the Governor-General in Council was empowered to make rules for the disinfection of wool in factories affected with anthrax.

The Factories Act of 1911 was again amended in 1923 for effecting some minor changes for administrative purposes, and also in 1926 for providing the infliction of penalties on parents or guardians for permitting children to work in two factories on the same day. It was again amended in 1931, enabling the local Government to make rules providing for precaution against fire in factories.

In the meantime, the Royal Commission on Labour, referred to above, made, *inter alia*, several recommendations for the amendment of the Indian Factories Act, on the basis of which the Government of India drew up a Bill with a threefold purpose :—(1) the reduction of the hours of work; (2) the improvement of the working conditions; and (3) the better observance by factories of the provisions of the Act. The Act was passed in 1934 and came into force on 1 January, 1935.

The most important provisions of the Act are the following :—

(1) The definition of a factory has been made more precise and extended and a distinction has been made between seasonal and non-seasonal factories, the former working for a season, that is, 180 days or less in a year. Moreover, local Governments have been granted power to apply, under Section 5 (1), the Act, in full or in part, by due notification, to any premises working with or without machinery and employing 10 persons or more.

(2) The Act lays down a 54-hour week and a 10-hour day for all adult workers in non-seasonal factories, but retains a 60-hour week and an 11-hour day in seasonal factories. Adult workers in non-seasonal factories with continuous process may, however, work 56 hours in any week. As regards overtime, a worker is entitled

to payment at the 1¼ rate for work exceeding from 54 or 56 to 60 hours a week in a non-seasonal factory, and at the 1½ rate for work exceeding 10 hours a day in a non-seasonal factory and exceeding 60 hours a week in either a seasonal or non-seasonal factory.

(3) The hours of work of children (persons between the ages of 12 and 15) are reduced from 6 to 5 a day, and those of women from 11 to 10 a day, in both seasonal and non-seasonal factories. Adolescents, who are a new category of protected young persons between the ages of 15 and 17, may not be employed as adults without a medical certificate of physical fitness.

(4) The period over which a working day may be spread is fixed at 7½ hours for children and 13 for adults, whether men or women. Women and children may not be employed before 6 A.M. or after 7 P.M., but the local Governments may, by notification in the local official gazette, vary these limits so as to make the working day fall within any span of 13 hours between 5 A.M. and 7-30 P.M.

(5) The local Governments have been empowered to make rules: (*a*) prescribing standards of artificial humidification; (*b*) protecting workers against the effects of excessive heat; (*c*) requiring any factory employing more than 150 workers to provide adequate shelter for the use of workers during the periods of rest; (*d*) requiring any

factory employing more than 50 women to reserve a suitable room for the use of the children of such women, and prohibiting the admission of children under the age of 6 into any part of such factory in which a manufacturing process is carried on; and (e) requiring factories to secure a certificate of the suitability of any building which is new or in which any structural alteration has been made. The Governor-General has also been empowered to declare the nature of what are regarded as hazardous operations and to secure the protection of all workers engaged in those operations.

Contrary to the draft Convention of 1919, the Factories Act of 1934 granted powers to Local Governments to exempt women holding supervisory positions in factories from the provisions prohibiting night work. This was, however, quite in harmony with the revised Convention of 1934. The Government of India ratified this revised Convention in September, 1935, but at the same time amended the Factories Act of 1934 prohibiting entirely the night work of women in Indian factories in any capacity whatsoever, on the ground that it was contrary to the social custom in India.

The Factories Act of 1934 was further amended in 1936 with a view to clarifying and extending the definition of a factory. An ambiguity arising as to whether a work employing 10 persons or more and done partly or wholly in the open air should

be included among the premises to which the local Governments could, under Section 5 (1), apply the Factories Act, and the Government of Bombay, finding difficulty in applying the existing Act to open-air undertakings, e.g., *dhobi-ghats* (laundries) in Ahmedabad where the conditions of work required legislative control, the Government of India amended the Act in April, 1936, granting local Governments power to notify as factories, whenever necessary, all industrial undertakings which carry on their work partly or entirely in the open air.

Some changes have also been made in the administration of the law. In connection with the health and safety provisions, the Government of India was granted power to specify certain operations including serious risk of bodily injury, poisoning and disease as hazardous. But, in pursuance of constitutional changes, the Government of India transferred this power, along with other executive powers vested in it, to the provincial Governments on 1 April, 1937.

An important feature of Indian factory legislation in recent years is the growing interest and action taken by provincial Governments to supplement its scope and to bring under control the unregulated factories, that is, those undertakings which are still outside the Indian Factories Act due to the fact that they either employ less than 20 persons, although using power machinery, or

do not use power machinery although employing substantial numbers of workers Although Provincial Governments have been granted powers to bring most of these unregulated factories under the scope of the Indian Factories Act by notification in the local Official Gazette, only a few of them have yet been brought under regulation.

The Royal Commission on Labour recommended a separate and simple legislative measure regarding the second class of these factories. With a view to giving effect to this recommendation, private Bills had recently been introduced into the legislatures of Madras, Bombay and the Central Provinces. The Government of the Central Provinces passed the Unregulated Factories Act in 1936 and brought it into force on 31 March, 1937. The Act applies within such areas as the local Government may select and to such workshops as employ 50 persons or more and are engaged in *bidi* (indigenous cigarette) making, shellac manufacturing and leather tanning. The scope of the Act may, however, be extended to include other industries and workshops employing as few as 25 persons.

Mining Legislation

The next important class of labour legislation in India relates to mines. Modern mining was

introduced in India early in the 19th century, but the necessity of regulating employment of labour was not realised by Government until the nineties. The absence of foreign competition and the nature of the mines, which are mostly near the surface, are partly responsible for the tardiness in undertaking mining legislation. The increasing employment of labourers, especially of women and children, in an industry which is specially subject to insanitary conditions and accidents, led to the appointment of a Mining Inspector in 1893. A Mining Committee was also appointed in 1895 for drafting rules, on the basis of which a Bill was prepared in 1899 and passed into law in 1901.

By this Act a mine was defined to be any excavation for minerals which is deeper than 20 feet below the level of the adjacent ground. The Government was given power to frame rules for regulating the conditions of work, and provisions were made for the establishment of Mining Boards which could be consulted on the question of such regulations. The Act also made provision for the appointment of a Chief Inspector, who was to be granted power to prohibit the employment of children under 12 and of women in a mine where conditions, in his opinion, were dangerous to their health and safety.

The Act of 1901 proved to be defective on several grounds such as :—(1) lack of provision for regulating the conditions of employment ; (2)

inadequate provisions for regulating child and woman labour; and (3) lack of definite division of administration between the Central and Local Governments. The mining industry also received a new impetus during the war and the unrest among workers, especially that in the coal mines in 1920, drew the public attention to the necessity of regulating labour conditions in mines. Moreover, the ratification by the Government of India of the Hours Convention of the International Labour Conference, which stipulated its application also to mining industries, made it necessary to amend the existing law. In 1923, a new Indian Mines Act was passed which came into force on 1 July, 1924. The chief provisions of the Act were as follows:—(1) The extension of the definition of a mine to include any excavation, irrespective of depth, for searching for or obtaining minerals; (2) the limitation of the weekly hours of work to 54 underground and 60 aboveground; (3) the limitation of the working days to 6 a week; (4) the prohibition of the employment of children under 13 years of age in mines.

One of the fundamental defects of the above Act was the absence of any statutory limitation of daily hours of work. The Government of India had however promised to consider the matter in consultation with the local Governments, and a new amending Act was passed in 1928, making unlawful the employment of any person for more

than 12 hours in any one day. The Act came into force on 1 April, 1930.

Another important question raised in connection with the Act of 1923 was the exclusion of women from underground employment in mines. Although the proposal was rejected, provision was made by which Government could make regulations for prohibiting or restricting such employment. The Government of India, in consultation with the local Governments and mining associations, promulgated the regulations, under Section 29 of the Indian Mines Act of 1923, by which the employment of women underground was prohibited from 1 July, 1929, in some of the mines and at the same time provision was made for the gradual elimination of women from underground employment in other mines. By these regulations the employment of women underground in mines would have come to an end by 1 July, 1939, but by subsequent regulations, no woman is allowed to be employed underground after 1 October, 1937.

In the meantime, the Government of India took steps to amend further the Indian Mines Act of 1923. The amendment of the Act was recommended by both the Select Committee on the Bill in 1928 and the Royal Commission on Labour in India in 1931. In the same year, the International Labour Conference at its Fifteenth Session, adopted a draft Convention limiting the hours of work in coal mines to $7\frac{3}{4}$ a day underground and 8 hours

a day and 48 hours a week aboveground. On the recommendation of both Chambers of the Indian Legislature for the consideration of the draft Convention and in consultation with the local Governments and Administrations, the Government of India passed the Indian Mines (Amendment) Act of 1935, which came into force on 1 October of the same year.

By this amendment, the hours of work are reduced from 60 a week and 11 a day to 54 a week and 10 a day respectively aboveground, and although the weekly hours of work underground were kept as before, that is, 54, the daily hours were reduced from 12 to 9 underground, the latter being counted from the moment of leaving the surface until the return to the surface; the minimum age for employment of children is raised from 13 to 15, and children between 15 and 17 can be employed underground only on the certification of physical fitness by qualified medical practitioners. Provisions are also made for miners to have the same number of representatives as the mine-owners on the Mining Board. Moreover, mines are required to record all accidents incapacitating persons for 24 hours or more, and local Governments are required to publish the reports of Committees and Courts of Enquiry appointed by them under the Act.

The Mines Act of 1923 was again amended in 1936 for the purpose of securing greater safety and

especially providing for adequate safeguards against fire in mines. Following fires at collieries in 1935 and 1936 causing the loss of life, the Government of India decided, in consultation with local Governments, mining interests and technical experts, to appoint an expert committee to investigate the whole question of safety in mines and at the same time to provide temporary measures by legislative action. A Bill further to amend the Mines Act of 1923 was therefore introduced into the Legislative Assembly on 8 April, 1936, and passed by the Assembly and the Council of State and assented to by the Governor-General in the same month. The Act was immediately promulgated for general information.

By this amendment the power of the inspectorate is enlarged to include the issue of orders to individual mines to take precaution against the premature collapse of any part of a mine and the danger of consequent outbreak of fire, and the Governor General in Council is granted additional power to make regulations against apprehended danger more speedily than is possible under the present provisions which require previous publication and reference to the Mining Boards. The new powers are to remain in force only for two years in both cases. Moreover, the Governor-General in Cun.cl ois granted power to make regulations by notification in the *Gazette of India*, requiring groups of specified mines to establish central

rescue stations under prescribed conditions, and providing for the formation, training and duties of rescue brigades.

One of the important provisions of the Mines Act is the establishment of Boards of Health to look after the health of local mining areas. This has been further extended by the Bengal Mines Settlement Act of 1912, and the Bihar and Orissa Settlement Act of 1920. The main object of these Acts is to make provisions for sanitary arrangements and housing accommodation in mining areas.

Transport Legislation

Transport legislation is still another class of specific legislation. Transport is a general term applicable to several classes of industries which have no basis of unity except that of serving the same common function of communication. There is therefore no body of law which may properly be called transport legislation. The series of legislation which have best developed for transport are those which relate to railways, shipping and docks.

The most important transport legislation is that for railways. The railways began to develop in India about the middle of the last century, but no question was raised of regulating the hours of work of their employees until the International Labour Conference adopted the Hours Convention in 1919

prescribing, among other things, that the principle of a 60-hours week should be adopted "in such branches of railway work as shall be specified for this purpose by the competent authority." A Convention relating to the weekly rest was also adopted by the International Labour Conference in 1921. These Conventions were ratified by the Government of India and given effect to in the India Railways (Amendment) Act in 1930, adding a new chapter with reference to the hours of work and weekly rests of railway servants.

The most important provisions of the Act are as follows:—(1) The hours of work of railway employees should not exceed 60 a week on an average in any month in the case of all staff coming under the Act, except those whose work is essentially intermittent and for whom the maximum is 84 hours in any week; and (2) a railway servant shall be granted, each week commencing on a Sunday, a rest of not less than 24 consecutive hours, except when the work of such a servant is essentially intermittent or he is among certain classes of railway servants specified by the Governor-General in Council, for whom periods of rest on a scale less than the above is prescribed. Owing to industrial depression, all the railways have not yet been brought under the scope of the Act, but all the State-managed railways with the exception of those in Burma have already been brought within the scope of the Act.

Another series of transport legislation is that relating to shipping for the regulation of which a consolidating Act amending the Indian Merchant and Shipping Act was passed in 1923. The Government of India ratified the draft Convention of 1921 on the minimum age for the admission of young persons to employment as trimmers and stokers and also the draft Convention on compulsory medical examination of children and young persons at sea as well as the draft Convention concerning seamen's articles of agreement of 1926 and amended the Indian Merchant Shipping (Amendment) Act in 1931 and also in 1933.

The Act as amended in 1931 and 1933 makes the following provisions regarding the employment of children and young persons on board ships :—(1) No young person under the age of 14 shall be employed in a ship except under certain conditions, e.g., when they are employed at nominal wages and are under the charge of their fathers or other near relatives ; (2) no young person under the age of 18 shall be employed as a trimmer or stoker except under certain conditions ; (3) no young person under the age of 18 shall be employed in a ship without a medical certificate of physical fitness. Under notification of December, 1931, the Government of India also restricted the hours and nature of work for trimmers and stokers ; and (4) seamen and apprentices employed in a British ship should be given specified space for accommodation.

The Indian Ports Acts form still another series of transport legislation. The Indian Ports Act of 1908 was amended in 1922 for giving effect to Article 6 of the draft Convention of the International Labour Conference of 1919 and for authorising local Governments to prohibit the employment of children under 12 years of age at ports. By an amendment in 1931, all such children were also prohibited from handling goods anywhere within the ports to which the Act applies.

The most dangerous occupation in ports and docks is, however, the work of loading and unloading ships. The Government of India ratified the draft Convention of the International Labour Conference of 1929 as modified in 1932, concerning protection against accidents in the loading and unloading of ships and gave effect to it in the Indian Dock Labourers Act of 1934, authorising the Governor-General in Council to make regulations to safeguard the dock workers from practically every danger to which they may be exposed in their callings or against which the revised Convention requires protection.

2. General Labour Legislation

Besides the above legislation for the regulation of labour conditions in specific industries, there

has also grown up in recent years another series of legislative measures which are generally applicable to all workers alike, irrespective of the industry in which they are employed. Some of these measures have been undertaken by local Governments, but most of them are under the jurisdiction of the Central Government. They relate to welfare, including the employment of children, maternity benefit and industrial housing, as well as protection of wages, workmen's compensation, trade unions and industrial disputes.

Social Welfare Legislation

The series of legislative measures relating to the welfare of children in general as well as to industrial housing and public health might be called social welfare legislation. They include the Employment of Children Act of 1933, the Land Acquisition (Amendment) Act of 1933 and various public health measures enacted by local Governments, which together lay down the foundation of what may be called social welfare in general.

Reference has already been made in connection with the specific labour legislation regarding the protection of children employed in factories, mines and transport industries. But there was

left an anomaly of the pledging of children, under which parents or guardians could secure loans or advances on agreement, either written or oral, mortgaging the labour of their children in agriculture, domestic service and some industrial undertakings. On the recommendation of the Royal Commission on Labour, the Government of India passed the Children (Pledging of Labour) Act in 1933. By this Act any agreement to pledge the labour of a child under 15 has been made void except under certain conditions, and parents and guardians, as well as employers making such an agreement are liable to a fine not exceeding Rs. 50 or Rs. 200 respectively. The Act came into operation immediately after the enactment with the exception of the penal clauses, which came into force on 1 July, 1933.

Another important social welfare measure relates to industrial housing, the need of which has been increasingly felt, specially in large industrial centres such as Bombay, Calcutta and Ahmedabad, where, due to the scarcity, employers are often unable to acquire land unless they pay an exorbitant price. On the recommendation of the Royal Commission on Labour, the Government of India passed an Act amending the Land Acquisition Act (1894) in 1933. By this amendment an industrial concern, whether owned by an individual, association or company, is able to acquaire land compulsorily for the purpose of

erecting dwelling houses for its workmen or for providing amenities (*e.g.*, sanitation, sewage and other services directly connected therewith). The local Governments are granted power to ensure proper construction of such dwellings on land acquired under this Act.

Closely connected with industrial housing is the question of public health, the necessity of which has been gradually realised. The Royal Commission on Labour recommended the enactment of public health measures under severe penalties but no action was taken by any Government other than the Government of Bihar and Orissa, which amended the Bihar and Orissa Municipal Act in 1935, providing for the compulsory notification of certain infectious diseases.

The adulteration of foods is another danger to public health, especially as far as workers and other poorer classes are concerned. The Royal Commission on Labour made a recommendation for the enforcement of pure food measures under severe penalties in all provinces. Some of the major provinces had already such measures and the Governments of Bengal, Bombay and the United Provinces amended their former Acts, either by providing more severe penalties or by extending their scope. The Punjab Pure Food Act of 1929 was also extended to the provinces of Delhi and Ajmer-Merwara in 1932.

Protection of Wages Legislation

Another important series of recent legislative measures is that for the protection of wages with a view to regulating the delay in payment of, and the deductions by way of fines or otherwise from, the wages earned as well as the protection against attachment of wages, the imprisonment for debt and the besetting and intimidation for collecting debts.

The most important measure is that of Payment of Wages Act. The question of regulating delay in payment of wages and deductions from wages in respect of fines, etc., came into prominence in 1925. Enquiries into the matter by the Government of Bombay and the Government of India in 1925 and 1926 respectively, revealed the existence of these evils and the Government of India formulated legislative proposals for their control in 1928. The Royal Commission on Labour made several recommendations for legislative regulation in 1931, on the basis of which the Government of India passed the Payment of Wages Act in April, 1936.

The main provisions of the Act are as follows :—

(1) The Act applies only to wages payable to persons receiving less than Rs. 200 a month and employed in factories and upon railways. It may be extended by the local Governments, after giving three months' notice in the local official gazette, to other industrial establishments,

(2) No wage period shall exceed one month and all wages shall be paid in cash and only on working days. Wages shall ordinarily be paid within seven days of the expiry of the period within which they have been earned in factories, on railways and in other industrial establishments employing less than 1,000 persons, and within ten days in cases where 1,000 persons or more are employed, and within two days when an employee is discharged.

(3) Deductions from the wages may be made only in accordance with the provisions of the Act in the following cases :—

(*a*) *Fines* may be imposed only on persons of 15 years or over and only for prescribed and notified acts and omissions and after giving an employee a chance of showing cause against the imposition of such fines. They may not exceed more than half an anna in the rupee ($\frac{1}{32}$ on the wage), and may not be recovered by instalments or after the expiry of 60 days from the day on which they are imposed. All fines shall be recorded in a register and spent on workers' welfare.

(*b*) Deductions may be made for *absence* only for the period during which an employee is actually absent unless 10 or more employees absent themselves in concert and without any reasonable cause, in which case 8 days' wages may be deducted; for *damage* or *loss*

when they can be directly attributed to the negligence or default of an employee, in which case the amount deducted shall not exceed the actual loss or damage caused to the employer ; for *services* which have been accepted by the employee as a term of employment, in which case deductions shall not be more than the actual service rendered ; for *advances* made before employment which may be recovered only from the first payment, and those made for wages not earned which may be recovered according to the prescribed rules. Deductions may also be made for the *payment of income-tax* or to meet the requirement by the order of the Court or other competent authority or for *subscriptions* to prescribed provident funds, etc.

(4) All claims arising out of deductions from or delay in payment of the wages shall be dealt with by special authority appointed by the local Government. Such authority may direct the refund of the amount deducted or the payment of delayed wages together with the compensation, not exceeding ten times the sum deducted in the former case and not exceeding Rs. 10 in the latter. The application for the recovery of unpaid wages may be made by an individual or an employed group in certain cases. Malicious and vexatious complaints have been made punishable. Provisions have also been made for appeal to the Court from these decisions.

(5) Infringement of the law is liable to prosecution, but such prosecution should not be instituted unless a successful claim has been made under the provision mentioned above, and the authority appointed under the provision of the appellate authority considers a prosecution to be warranted.

Certain amendments of a formal character were made by the Repealing and Amending Act (XX) of 1937. After the preparation of the necessary rules, the Act as amended was brought into force on 28 March, 1937. The Payment of Wages Act of 1936 was also amended by the Payment of Wages (Amendment) Act (XXII) in April, 1937. The object of this amendment was to remedy a defect in Section 9 of the Act which, while permitting deductions from wages when workmen were absent from work, made no provision for such deductions in case they were present but declined to work. The amending Act provides that "an employed person shall be deemed to be absent from the place where he is required to work if, although present in such place, he refuses, in pursuance of a stay-in strike or for any other cause which is not reasonable in the circumstances, to carry out his work."

Another evil connected with the payment of wages is imprisonment for debt as permitted by Section 51 of the Code of Civil Procedure, 1908.

All male debtors are liable to arrestation and imprisonment for six months in the execution of a decree for payment of more than Rs. 50 and for six weeks in case of smaller sums. On the basis of the recommendation made by the Royal Commission on Labour the Government of India introduced a Bill further to amend Section 51 of the above Code into the Legislative Assembly in February, 1935, and it was finally passed in October, 1936. The chief provision of the Act is the protection of honest debtors of all classes from detention in a civil prison and to confine such detention to a debtor who is proved to be recalcitrant or fraudulent.

In the meantime, some of the local Governments have also taken action for the liquidation of debt. In 1934 the Punjab Government passed the Punjab Relief of Indebtedness Act (VII) of 1934, ensuring that no judgment-debtor should be liable to imprisonment except for a contumacious refusal to pay a sum within his capacity for such property as is liable to attachment in the execution of a decree. The Act came into force in April, 1935. In 1936, the Central Provinces Government also passed the Central Provinces Adjustment and liquidation of Industrial Workers' Debt Act (V) of 1936. It is applicable to all industrial workers receiving not more than Rs. 50 a month in such areas as the Local Government may direct. By this Act, the Court is given

power to determine the extent to which a borrower can repay his debt within a reasonable time, due care being taken of the amount of his wages and the number of his dependants. The Act came into force on 1 January, 1937.

The attachment of wages is still another evil permitted by Section 60 of the Code of Civil Procedure, 1908. A money-lender can get an attachment on the wages of his debtor and can use the employer as the debt collector to the extent of half an employee's salary or of the amount by which that salary exceeds Rs. 20, whichever is less. The Government of India, on the recommendation of the Royal Commission on Labour introduced a Bill into the Legislative Assembly on 18 February, 1935, further to amend Section 60 of the above Code. The Bill was passed in February, 1937, as the Code of Civil Procedure (Amendment) Act (IX). The main provisions of the Act are that (1) salaries not exceeding Rs. 100 a month of all workers should be totally exempt from attachment; and (2) the pay of servants of Government, railway companies and local authorities getting over Rs. 100 a month should be exempt to the extent of the first Rs. 100 and half of the remainder; and (3) the Act also limits attachment in respect of the same decree or decrees to 24 months in all and provides that, after attachment has continued for 24 months, there should be no liability to further attachment for twelve months.

Besetting is still another evil which adds to the grievances of industrial workers. Instead of taking any legal proceedings for the recovery of the debt, some money-lenders use intimidation or even violence and pounce upon the debtor as he emerges from factory gates, or even inside the compound, on pay day, thus ensuring their claims as first charge upon workers' wages. The Royal Commission on Labour recommended making besetting a criminal and cognisable act and defined it as "loitering within the precincts or within the sight of any gate or outlet of the establishment." In consultation with Provincial Governments, the Government of India came, however, to the conclusion that legislative action on the part of the Central Government was not called for.

The evil effects of the system cannot, however, be denied and, at the suggestion of the Government of India, the Government of Bengal passed an Act called the Bengal Workmen's Protection Act in 1934. The Act aims at preventing the recovery of debts from certain classes of workmen by besetting their places of work and provides that whoever loiters in or near any place of work, *e.g.*, factory, mine, dock, etc., with a view to recovery of any debt from any workman employed therein shall be prosecuted with imprisonment, which may extend to six months, or with fine or both. The Act is at present applied only to Calcutta and the districts of 24-Parganas, Hooghly and Howrah, but

may be extended to other areas, by the Government of Bengal.

An Act of similar character but of wider application was also passed by the Central Provinces as the Central Provinces Protection of Debtors Act (IV) of 1937, making punishable for the recovery of a debt, wherever it occurs, " molestation " including obstruction, violence, intimidation, persistent following of the debtor and loitering at or near his residence or place of work. The Act came into force on 8 March, 1937.

Social Insurance Legislation

Another important series of legislative measures is that of social insurance, which has been introduced in India only in the case of workmen's compensation and maternity benefit. The demand for compensation in case of accident was made by workers as early as 1884 but it was not until 1922 that the importance of such a measure was realised by Government and provisions were made in the Factories (Amendment) Act of 1922, empowering the Courts to pay compensation to injured employees out of fines imposed upon employers. The principle of legislation for compensation was, however, accepted by the majority of the local Governments and employers' associations, and a Bill was introduced in 1922 and passed into law in 1923. The Act was amended in 1926 and

1929, giving effect to some provisions of the International Convention and Recommendation. In 1931, the Act was extended, by notification, to cover all persons engaged in aerial rope works.

Although amended and extended, the Act was found still inadequate, and on the basis of the recommendations of the Royal Commission on Labour, the Government of India passed an Amending Act in 1933, which came into force on 1 July, 1934. By this amendment, the scope of the Act has been extended to new industries and occupations, the scale of benefits has been increased, the period of waiting for compensation has been reduced from ten to seven days, and widowed sisters and widowed daughters of the worker have been included among the list of the dependants for compensation, and the Governor-General in Council has been granted power to arrange for the transfer of compensation to a foreign country in case of a person residing abroad and also for the administration of the compensation awarded under the law of a foreign country for the benefit of a person residing in British India.

The Workmen's Compensation Act of 1923 as finally amended in 1933 is applicable to the following industries :—(1) factories (including those using power machinery and employing ten persons or more and also those not using power machinery but employing 50 persons or more); (2) mines;

(3) plantations (cinchona, coffee, rubber and tea) employing 25 persons or more; (4) shipping; (5) the loading and unloading of ships; (6) ship-building; (7) building of houses (more than one storey high); (8) construction of roads and highways; (9) operation of mechanical vehicles; (10) manufacture and handing of explosives; (11) generation of gas and electricity; (12) production and exhibition of cinematographical pictures; and (13) keeping of elephants and other wild animals. Among the accidents are also included a few occupational diseases, such as (1) anthrax; (2) lead, phosphorous, mercury and benzene poisoning; (3) chrome ulceration; and (4) compressed-air illness.

Compensation is payable to workers for the injury caused by an accident arising out of and in the course of employment. It is payable by employers and the Act is administered by whole-time commissioners in the important industrial centres and by the judges of the Small Causes Courts as *ex-officio* commissioners in other places. The clerical staff in these services as well as those workers whose salaries exceed Rs. 300 a month, are explicitly excluded from the scope of this Act.

The scale of payment is determined by the rates of wages as classified under 17 categories ranging from a minimum of Rs. 10 a month or less to a maximum limit of Rs. 200 a month or

more. These scales may be classified under the three following headings: (1) In case of temporary disablement, compensation is payable half monthly; (*a*) at one-half of the monthly wages, subject to a maximum of Rs. 30 to a minor; (*b*) at a rate varying from full wages in the lowest wage classes to a maximum of Rs. 30 in the other wage classes to an adult. The maximum period for compensation for temporary disablement is 5 years.

(2) In case of permanent disablement, compensation is payable in the form of a lump sum, from which is deducted any payment which might have been made during temporary disablement. Where the disablement is total, the compensation is fixed at Rs. 1,200 for a minor and varies from Rs. 700 to Rs. 5,600 according to wage rates for an adult. Where the disablement is partial, the compensation is paid at a scale proportionate to the loss of the earning capacity.

(3) In the case of death, compensation is payable in the form of a lump sum and is fixed for the death of a minor at Rs. 200, but that for the death of an adult varies from Rs. 500 to Rs. 4,000 according to the variation of the wage rates.

The other item of social insurance in India relates to maternity benefit, the importance of which was realised after the adoption by the International Labour Conference of a draft

convention in 1919. Although the Government of India introduced a system of maternity benefit for their own employees, they opposed a private Bill to that effect introduced into the Legislature in 1924. The question was, however, soon taken up by Provincial Governments and a Bill, introduced in 1928, was passed by the Bombay Legislative Council in 1929. A similar Act was passed by the Central Provinces and Berar in 1930. The Bombay Maternity Benefit Act of 1929 was extended to Ajmer-Merwara, with certain modifications, in 1933. The Bombay Act was amended in 1934 on the lines suggested by the Royal Commission on Labour and the Central Provinces Act was also amended in 1935 for the same reason. The Government of Madras passed the Maternity Benefit Act in 1935. Moreover, the Bombay Maternity Act of 1929 was extended to Delhi with certain modifications and brought into force on 1 January, 1937.

The essential features of the Maternity Benefit Acts are as follows:—(1) All of them relate to women working in factories and in Madras the Act is specifically limited to non-seasonal factories and in Ajmer-Merwara to perennial factories employing not less than 50 women workers ; (2) in all cases the entire cost is to be borne by employers; (3) the maximum period for which the benefit is available is eight weeks in Bombay and the Central Provinces, seven weeks in Madras and

six weeks in Ajmer-Merwara, the period being three or four weeks before and three or four weeks after the birth of the child; (4) the amount of benefit is 8 annas a day in the Madras Presidency and also in the cities of Bombay, Ahmedabad and Karachi in the Bombay Presidency; in the rest of the Bombay Presidency as well as other provinces, the benefit is at the average rate of the woman's daily earnings, calculated on the wages earned during a period of three months preceding the day on which she is entitled to receive the benefit, or at the rate of 8 annas a day, whichever is less; (5) the woman must be in the service of the employer from whom she claims benefit for nine months in all the provinces, except in Ajmer-Merwara where the qualifying period is twelve months, and she must not work in any other place during the period in which she receives the benefit. Moreover, she cannot be discharged from the employment within the period during which she is entitled to benefit.

Trade Union Legislation

Trade union legislation is still another important class of general labour legislation. Since 1918 trade unions have been growing both in number and volume, but the importance of guaranteeing protection to their activities was not realised until 1920, when a labour leader was put under

injunction for inducing workers to break their contract with the employer. In 1921, the Government of India accepted a resolution of the Legislative Assembly to take steps for the regulation and protection of trade unions and, after consultation with the local Governments, passed the Indian Trade Union Act in 1926, which came into force on 1 June, 1927.

The main object of the Act is to grant immunity from civil suits and from prosecution for criminal conspiracy to all unions which would be registered under this Act. The registration of trade unions has been made optional, but the auditing of funds is compulsory. Outsiders are allowed to be on a union's executive committee and an additional fund may be established for political activities, but the general fund of a registered union may be spent only on specified objects. The Act was amended in 1928 with a view to defining clearly the procedure regarding appeal. Some provinces gave effect, by regulations, to the recommendation of the Royal Commission on Labour that all unions should be able to secure, free of charge, the conduct of their audit by officials of Government.

Industrial Dispute Legislation

Legislation in connection with industrial disputes is still another series of general labour legislation.

The origin of industrial dispute legislation may be traced as far back as 1860 when, following friction between European railway contractors and their Indian workers, the Government of India enacted, at the instance of the Government of Bombay, the Employers and Workmen (Disputes) Act, providing for the speedy and summary disposal of such disputes by magistrates and sanctioning at the same time criminal penalties for breach of contract. The Act had long ceased to function and was repealed in 1932.

Industrial disputes appeared, however, in more violent form during and immediately after the war, especially in 1919 and 1920 Committees were appointed by the Government of Bengal and Bombay to investigate the matter and to suggest remedial measures in 1921 and 1922 respectively. The Government of India even prepared, on the basis of the report of the Bombay Committee, a Bill in 1924, but it was not until 1929 that the first Indian Trade Disputes Act was passed for five years. The two main provisions of the Act are as follows :—(1) The establishment of two tribunals, *e.g.*, the Court of Enquiry and the Board of Conciliation ; and (2) the prevention of strikes without notice in public utility services in the case of persons employed on monthly wages. It was brought into force by notification on 7 May, 1929.

The Act was amended in 1932 with a view to removing an important defect, under which those

who served on the Court of Enquiry and the Board of Conciliation were exposed to prosecution regarding the disclosure of confidential information on trade unions or industrial undertakings. As it was only experimental for five years and was to expire on 7 May, 1934, the Act was amended again early in 1934 for its prolongation. An important revision of the Act has, however, been proposed in the Trade Disputes (Amendment) Bill, which was introduced in the Legislative Assembly in September, 1936. The Bill intends to give effect to some of the recommendations of the Royal Commission on Labour and provides for the appointment of conciliation officers and the radical changes of the provisions relating to illegal strikes on public utilities. The Bill has been circulated for eliciting public opinion on these proposed amendments.

In the meantime, the Government of Bombay, which is more concerned with the establishment of industrial peace than any other province, passed the Bombay Trade Disputes Conciliation Act in 1834, with a view to making further provision for the settlement of trade disputes by conciliation. The Act came into force on 8 October, 1934. The main provisions are as follows :—

(1) The appointment of a Government labour officer to look after the interests of labourers in the industry and to promote closer contact between employers and employees;

(2) The creation of a Conciliatory Board with

the Commissioner of Labour as *ex-officio* chief conciliator, who may be assisted by other suitable commissioners and who has the same power as a Civil Court;

(3) Obstruction to conciliation proceedings has been made illegal and penalties may be as high as six months' imprisonment or fine or both. Picketing in respect of a strike during the pendency of conciliation proceedings is not prohibited but any picketing against conciliation proceedings has been declared illegal. The Act is, in the first instance, applicable to the textile industry in Bombay City and its environment but may be extended to other areas whenever necessary.

3. Legislation in Indian States

As in the case of British Provinces, modern industry has made gradual progress in Indian States, as indicated by the fact that the paid-up capital of the joint stock companies amounted, in 1933-34, to Rs. 12·55 crores, in the case of those registered in India, and to 10·97 million, in the case of those registered abroad but at work in the States. Moreover, 48 States are reported to have such modern industries as factories, mines, plantations and transport and 22 States are reported to have labour regulations. As in the case of British India, these regulations may roughly be

classified under two headings, namely (1) the specific, and (2) the general.

Specific Labour Legislation

Specific labour regulations are those which relate to such industries as factories, mines and plantations. Transport industries have also developed in larger States and some of them have their own railways and even seaports; Cochin has just opened a first-class port. But nothing is known about the existence of transport legislation in these States.

The most important class of modern industries are the factories, especially textile mills and cotton ginneries and presses. In 1935 there were 1,550 factories, employing 242,800 workers, and the number of textile mills and ginneries and presses were respectively 172 and 729, employing a daily average of 90,262 and 51,578 workers respectively. Most of the factories are located in Hyderabad, Baroda, Mysore and Indore, which had, in 1935, respectively 368, 168, 198 and 163 factories and employed an average daily number of 49,490, 27,409, 26,924 and 21,680 workers.

Labour regulations have best developed in connection with these factories. These regulations differ from State to State, but most of them have been modelled after the Factories Acts of the Government of India. As a rule, they lag behind but a few of them have adopted some of the recent

amendments introduced by the Government of India along the lines of the International Labour Conventions. Among the States regulating labour in factories, the most important are Hyderabad, Indore, Baroda and Mysore, which enacted or amended the existing factory legislation in 1928, 1929, 1930 and 1935 respectively. The Mysore Factories Regulation is entirely based on the Indian Factories Act of 1934. The main provisions of these measures are as follows :—

(1) A factory is defined to be any premises using power machinery and employing 20 (30 in Baroda) persons or more ; and the Government (except in Indore) is granted power to apply the Act to any premises using power machinery and employing 10 persons or more, or not using power machinery but employing 20 persons or more (Hyderabad), or to any premises employing 10 persons or more, whether using power machinery or not (Baroda and Mysore). The Mysore Regulation also makes a distinction between seasonal and non-seasonal factories.

(2) A child is defined to be any person under 15 (14 in Indore) years of age and is required to have a certificate of age, which must be 11 years in Indore and 12 years in others, and also of physical fitness as conditions for admission to employment in a factory. The Mysore Regulation creates also a new class of protected young persons between the ages of 15 or 17, *i.e.*, adolescents,

who may not be employed as adult workers in a factory without the certificate of physical fitness.

(3) The hours of work of children are 5 a day in Mysore and 6 in others ; of women, 11 a day in Indore and 10 in others ; and of men, 60 a week and 11 a day in Hyderabad and Indore, 10 a day in non-seasonal factories and 11 a day in seasonal factories in Baroda, and 54 (56 in continuous processes) a week and 10 a day in non-seasonal factories and 60 a week and 11 a day in seasonal factories in Mysore. The employment of women and children at night has been prohibited in all the States and provisions have also been made for rest intervals and weekly holidays, and Mysore and Indore even provide for extra pay for overtime.

(4) Provisions have been made for cleanliness, ventilation and lighting, drinking water and sanitary latrines, as well as for the safety of machinery, adequate fencing and protection against fire. The employment of women and children in dangerous work has been prohibited and the Government of Mysore has also been granted power to take further measures for the health and comfort of all the workers and for the safety of women, adolescents and children in hazardous occupations.

(5) The administration of the law is entrusted to factory inspectors to be appointed by the Government for the purposes of the Act as well as to

ex-officio inspectors to be designated by the Government, district magistrates in their jurisdiction and certifying sergeants to be appointed by the Government. Every factory is to keep, in prescribed form, separate registers for children and adults and display and maintain the periods during which they may be employed and conform to other requirements of the law. The Government is granted power to make rules for carrying out these and other objects of the law.

The second important class of labour regulations in Indian States relate to mines, of which gold and coal mines are the most important. Gold mines are practically confined to the Kolar field in the State of Mysore, which employed about 22,000 workers in 1935. Coal mines are scattered over several States ; the total production of coal amounted to 2,025,000 tons and the number of colliery workers to 18,694 in 1936. The largest coal-producing State is Hyderabad, which produced 852,700 tons of coal and employed 9,486 workers.

The most important States in the development of Mining Legislation are Mysore, Hyderabad and Travancore in which the Mining Act or Regulation was enacted in 1906, 1911 and 1928 respectively. The main provisions of these measures are as follows :—

(1) The appointment by the Government of an Inspector of Mines with the necessary power

to carry out the object of the law; of Sanitary Boards for the enforcement of sanitary rules and sanitary administration in Mysore and Hyderabad; of Mining Boards to act as Advisory Bodies to the Government and to decide any matter referred to and of Committees to investigate any question referred to in Hyderabad; and of Courts of Enquiry to make any formal enquiry into the causes of an accident in Hyderabad and Travancore.

(2) A child is defined to be any person under 12 years of age in Hyderabad and 14 years of age in Travancore; the Travancore Regulation prohibits the employment of children both above and below ground and of women below round; and the Government of Hyderabad is granted power to prohibit the employment of women and children either above or below ground in any occupations, which are attended with any danger to the life, safety and health of such women and children.

(3) The Travancore Regulation limits the working days to 6 a week and the hours of work to 11 a day and 54 a week above ground and 42 a week below ground, and also prohibits the employment of women at night.

The third series of labour regulations in Indian States relate to plantations which employ considerable numbers of labourers. The tea, coffee and rubber plantations employed, for instance, 87,133, 49,625 and 20,140 workers respectively in 1935-36,

As in the case of British India, most of these plantations had been practically immune from any legislative control. But the State of Cochin has taken the first step in this direction and promulgated plantation rules on 12 April, 1937, which came into force on 1 May, 1937. This is the first Act in the whole of India for the direct control of labour conditions on plantations.

The main provisions of these rules are the following :—

(1) Plantation is defined to mean "any estate on which labourers are employed having ten acres of land actually cultivated in tea, rubber, coff e, cocoa, cardamoms, camphor, pepper, cocoanuts, areca nuts and cashew nuts" or "any such estate where 20 or more labourers are employed on any one day in the year."

(2) These rules prohibit the employment of (*a*) children under 10 years of age upon any estate and (*b*) children under 16 years of age as resident labourers upon any estate without a medical certificate of physical fitness, and (*c*) women and children between 6 p.m. and 6 a.m.

(3) These rules provide for free medical aid and free food during illness, anti-malaria measures during the malaria season, standard sanitary housing accommodation, supply of sufficient pure water and rice of good quality at cost price, maintenance of a register for births, deaths, accidents, etc., and

free maternity aid and food to all resident women labourers for a period of 7 weeks.

(4) These rules also provide for the inspection of estates by the Director or Deputy Director of Public Health, and by a magistrate or deputy magistrate, at least once a year.

General Labour Legislation

General Labour Legislation or legislation for the welfare of workers in general, irrespective of the industry in which they are employed, has also been making gradual progress in Indian States. Most of the existing legislative measures relate to the abolition of labour under penal sanction, protection of wages, social insurance and industrial relations.

Several states had made breaches of contract punishable under the criminal laws, which were adopted, either in full or in part, from the Indian Workmen's Breach of Contract Act of 1859, and Sections 490 and 492 of the Indian Penal Code (XIV of 1860). After the abolition of labour under penal sanction by the Government of India, both Mysore and Travancore abolished labour under any kind of penal sanction in 1933 and 1935 respectively.

Another series of important labour measures relates to the protection of wages, including relief from indebtedness, but only measures enacted by

Indian States in this direction relate to the Attachment of Wages Regulation and the Imprisonment for Debt Regulations passed by Mysore in 1937. Under Sections 60 and 51 of the Mysore Code of Civil Procedure, one-half of the salary of a debtor over Rs. 20 could be attached by a creditor towards the payment of his debt, and all persons including workers were liable to arrest or imprisonment in the execution of a decree for the payment of debt. By the amendments of the above Sections, the salary up to and including Rs. 50 and one-half of the remainder has been made exempt from attachment for the payment of the debt and all honest debtors have been freed from unnecessary detention in prison unless they have been proved to have recourse to fraudulent methods for avoiding payment.

The most important series of general labour measures in Indian States relates, however, to social insurance, *e.g.*, workmen's compensation and maternity benefit. Workmen's compensation legislation was passed by Mysore in 1928, by Baroda in 1929 and by Indore in 1935, and is under consideration by Travancore. All the workers or their dependants coming under these measures are entitled to compensation for industrial accidents including a few industrial diseases at a fixed rate for temporary or permanent disablement or death. Maternity benefit measures have also been passed by Baroda as well as by Indore in

1936 and by Mysore in 1937. Under these measures all women employed in a factory and after a service of nine months in Mysore and 11 months in Indore, are entitled to maternity benefit at a fixed rate for eight weeks, *i.e.*, four weeks up to and including the day of confinement and four weeks immediately after.

Trade union measures have also been passed by Cochin and Travancore in 1936 and 1937 respectively and is under consideration by Mysore and Indore. These measures require trade unions to register under the law voluntarily in Cochin and compulsorily in Travancore, to have over one-half (at least three-fourth in Travancore) of their officers employed in an industry with which the union is affiliated, to have their funds annually audited and to spend their general funds for specific and prescribed purposes, though they might also have separate funds based on voluntary contributions for political activities. The officers and members of the registered unions are granted protection against any civil or criminal proceedings in respect of any activities for the furtherance of trade unions and trade interests.

Trade dispute measures were also passed by Indore and Cochin in 1933 and 1937 respectively and are under consideration by Travancore. These measures provide for the appointment by the Government of a conciliation officer and a board of arbitration in Indore and a court of enquiry and

a board of conciliation in Cochin for enquiry and settlement of trade disputes. Strikes and lockouts in public utility services as well as sympathetic strikes are made illegal. The Government of Indore reserves the right to give its final decision for the settlement of a dispute while that of Cochin leaves it to the pressure of public opinion after the facts have been investigated and made public.

CHAPTER II

LEGISLATIVE PROCEDURE [1]

Reference has already been made to various legislative processes through which the proposal for any measure must pass before it becomes an Act and also to various administrative processes to which the Act itself must also be subjected and rules and regulations made thereunder before it can be given effect to. Some of these measures are closely connected with the principles and problems of labour legislation and need further discussion.

1. Constitutional Background [2]

As a legal institution, labour legislation is intimately connected with Government in both its structural and functional capacity. Various departments of Government, such as the executive, the legislative and the judiciary, take an important part in the projection, introduction, enactment

[1] *Cf.* "Procedure in Labour Legislation," *Modern Review*, October, 1936. Legislation is used here in a broader sense and includes administration.

[2] This chapter was written when the old Constitution was still in force, and was revised when the first part of the new Constitution was inaugurated, and the second part still in contemplation.

and enforcement of legislative measures. These processes are somewhat complex in India, due to the fact that although a unitary constitution when most of the labour measures were enacted, the Government of India scarcely took any independent action before consulting various local Governments on any measure in respect of labour, and they will be much more complicated with the establishment of the Federal Government, consisting of semi-autonomous British Provinces and semi-independent Indian States.

The Old Government

Since the rise of British rule in India about the middle of the eighteenth century, the Constitution of the Government of India has undergone considerable changes. Far-reaching reforms were brought about by the Regulating Act of 1773, the Charter Act of 1833 and the Act of 1858 transferring the Government of India from the Company to the Crown, as well as by subsequent Acts. But a very significant change was made by the Government of India Act of 1919 which provided for the inclusion of Indian Ministers, responsible to the local legislature, in the Executive Councils of the Governors in the provinces.

The Constitution of British India under the Act of 1919, which was brought into operation in

1921, consists of a Central Government [1] vested in the Governor-General in Council and provincial or local Governments which are subject to the control of the Central Government. The Governor-General is the sole representative of the Crown and is assisted by a council of six ordinary members, each representing a department, generally three Indians and three British and the Commander-in-Chief. The Indian Legislature consists of the Governor-General and two Chambers, the Council of State and the Legislative Assembly, but the Governor-General, who is responsible only to the Secretary of State for India and through him to Parliament, retains power to enact under special conditions measures for the safety, tranquillity and interest of the country against the wishes of the Council or Assembly.

The Provincial Governments under the old Constitution, which have already been replaced by those under the new Constitution, were of two categories, namely, Governors' provinces, of which there were ten, and Chief Commissioners' provinces of which there were five. [2] In the

[1] The Central Government is to be replaced by the Federal Government under the new Constitution, but was still in existence at the time of this writing.

[2] The Governors' provinces were Assam, Bengal, Bombay, Bihar and Orissa, Burma, the Central Provinces and Berar, Madras, the North-West Frontier Province, the Punjab and the United Provinces; and the Chief Commissioners' provinces were Ajmer-Merwara, the Andaman and Nicobar Islands, Beluchistan, Coorg and Delhi.

former, the Provincial Government consisted of a Governor and an executive council of not more than four members and two or more ministers. The Provincial Government was based on a scheme of diarchy due to the allocation of the subjects into what might be called "reserve" and "transferred" fields. The Government consisted of both the Governor in Council dealing with the former subjects, and the Governor acting with ministers dealing with the latter. Each of the Governors' provinces as well as the Chief Commissioners' province of Coorg had a legislative council, which was partly nominated and partly elected. The Chief Commissioners' provinces were really under the control of the Governor-General in Council, for whom the Chief Commissioners acted as mere agents.

The New Constitution

The Government of India Act of 1935 has established a new Constitution with the twofold object, namely (1) Federation, and (2) Provincial Autonomy. The first provides for the establishment of a Federal State consisting of British Provinces and those Indian States which will accede to it. The second grants a substantial autonomy to various provinces with concurrent powers in many subjects. While the Federal Government has still

to be formed, Provincial Governments were brought into existence on 1 April, 1937.

The executive authority of the Federal Government will be exercised by the Governor-General on behalf of His Majesty, who will have a council of about ten ministers responsible to the Federal Legislature to aid and advise him in the exercise of his function, except when he is required to exercise his discretionary power or to discharge his special responsibilities. The Federal Legislature will consist of His Majesty represented by the Governor-General and two Chambers to be known as Council of State and House of Assembly or Federal Assembly. The Governor-General has also been granted a certain amount of legislative power such as the promulgation of Ordinances during the recess of the legislature or at any time with respect to certain subjects and also the enactments of Acts in certain circumstances. The representatives of British India in the Council of State[1] are to be chosen by communities, indirect election being retained for the representatives of the Anglo-Indian, European and Indian Christian communities and those of Indian States are to be appointed by the rulers of the States. The Federal Assembly[2] is to be in the main elected by the provincial assemblies.

[1] The Council of State will have 260 representatives consisting of 156 from British Provinces and 104 from Indian States.

[2] The Federal Assembly will have 375 representatives consisting of 250 from British Provinces and 125 from Indian States.

Provincial Governments under the new Constitution are also of two different kinds, namely 11 Governors' provinces and 5 Chief Commissioners' provinces. The executive authority of each province is exercised by the Governor, with the help of ministers responsible to provincial legislatures, except in cases where he is required to use his discretionary powers or to discharge his special responsibilities. The provincial legislature consists of His Majesty represented by the Governor and one or two Chambers as the case may be. Six provinces have two Chambers, the Legislative Council and the Legislative Assembly,[1] and five only one Chamber, namely the Legislative Assembly.[2] As before the Chief Commissioners' provinces are administered by the Governor-General acting through Chief Commissioners as his agents and appointed by him at his discretion.[3] The representation in the provincial legislature is based mainly on the allocation of seats to various communities and special interests.

The provinces were and still are divided into divisions under Commissioners and sub-divided into districts, each of which has at its head an executive officer, variously called a Collector and Magistrate

[1] *E g.*, Bengal, Bombay, Madras, the United Provinces, Bihar and Assam. By the Act of 1935, Burma is separated from India.

[2] *E.g.*, the Punjab, the Central Provinces and Berar, the North-West Frontier Province, Orissa and Sind.

[3] Coorg has its Legislative Assembly as before.

or a Deputy Commissioner. The magistrate and collector is the chief executive officer and virtually the supreme authority in the district which is the political unit in the country. A district is generally sub-divided into smaller units called sub-divisions with respective officers who are directly under the supervision of the district officer.

Besides the executive function, the magistrate-collector also administers justice in all criminal cases. The administration of justice in civil suits is left to specially appointed Judges. The district judiciary, whether of the criminal or of the civil court, is responsible to the High or Chief Court located at the metropolis of each major local Government. An appeal from the latter court may be made in certain cases to the Privy Council in England.

Legislative Authorities

Under the old Constitution, when most of the legislative measures discussed here were passed, the Government of India was the supreme authority and initiated all legislative and administrative measures relating to labour for the whole of British India; and subject to the assent of the Governor-General in Council, provincial Governments could undertake both the enactment and enforcement of some legislative measures which were assigned to

them. Moreover, all labour subjects in British Provinces were "reserved," that is, under the direct control of the members (not ministers) of Governors' in Council, and came under the "superintendence, direction and control" of the Central Government.[1] Even the administration of the law by the provincial Government was subject to the control of the Central Government.

All the labour subjects under the old Constitution, whether legislative or administrative, were thus divided under two categories, namely, (1) the central, and (2) the provincial. The central labour subjects were all those questions for which the Central Government and the central legislature were responsible; provincial Governments could deal with them only with the delegation of power by the Central Government. They related to such questions as labour in mines, on railways, in major ports and on sea-going ships, as well as inter-provincial and international migration. The provincial labour subjects were all those questions for which provincial Governments and provincial legislatures were, although subject to the consent or control of the Central Government, responsible in respect of legislation or administration or both. They related to such questions as labour in factories, in plantations, on public works and on inland steam vessels as well as labour disputes, welfare

[1] *Report of the Royal Commission on Labour in India*, p. 436

of labour including provident funds, industrial insurance (general, health and accident) and housing. The Chief Commissioners' provinces, except Coorg, had no legislature and both legislation and administration in respect of labour were the concerns of the Central Goverment.[1]

Under the new Constitution, all labour subjects have been classified into three categories or lists, namely :—(1) the federal, (2) the concurrent, and (3) the provincial; and the legislative powers of federal and provincial Governments have also been defined by Section 100 of the Government of India Act of 1935. All labour subjects which were central under the old Constitution have roughly become federal under the new Constitution and will naturally be applicable to both British Provinces and Indian States. Concurrent subjects are those questions, for the legislation of which both the federal and provincial Governments are equally responsible. They relate to : (1) factory labour ; (2) welfare of labour; (3) social insurance including provident funds, employers' liability and workmen's compensation, health insurance including old-age pension and unemployment insurance; and (4) industrial relations including trade unions and industrial and labour disputes. All other labour questions may be regarded as provincial subjects including : (1) plantation labour, (2) labour on

[1] *Cf. Report of the Royal Commission on Labour in India*, p. 456.

inland navigation and minor ports (subject to the provisions of the federal legislative list), (3) labour in small mines and oil fields (subject to the provisions of the federal legislative list), (4) unemployment, (5) compulsory acquisition of land, *e.g.*, housing, (6) public health and sanitation, and (7) adulteration of foodstuffs.[1]

2. Enquiries and Representation

The Government of India, although the supreme authority in labour legislation, scarcely undertakes any measure without consulting local Governments or without proper enquiries and investigations, both departmental and public. Moreover, employers' associations, labour organisations, and other interested parties, are generally consulted in all enquiries, and are represented in all public investigations, such as committees and commissions.

Departmental Enquiries

The commonest way of undertaking enquiries by Government is the action taken by the department or departments concerned. A large amount of information becomes available to Government in the course of the administration of labour laws,

1 Government of India Act of 1935 (25, Geo. V), Vol. I, Section 100, and Vol. II, 7th Schedule

and other material is also collected as occasion arises. These enquiries may be classified under the following headings: (1) periodical returns; (2) inspectors' reports ; (3) special conferences ; (4) occasional enquiries ; and (5) researches of labour bureaux.

Periodical returns are a very important source of labour information. Under regulations, most of the important industrial undertakings, such as factories, mines, and plantations in Assam, are required to submit returns on various subjects, such as production, hours, accidents, wages and similar other subjects, as prescribed by the competent authorities. To these may be added the reports of inspectors and other administrative officers or bodies, such as compensation commissioners, trade union registrars, and mining boards and committees. All these and similar other statistical reports are published by the following authorities: (1) all the provincial Governments publish annual reports on the working of the Factories Act, which are also summarised and published by the Government of India as factory statistics ; (2) an annual report on the working of the Mines Act, as prepared by the Chief Inspector of Mines, is published annually by the Government of India ; (3) the Assam Government publishes, with some comments, the reports of the commissioners from two divisions of Assam on immigration, employment, vital statistics, wages,

inspection, and other similar topics ; (4) the supervisor of railway labour publishes an annual report on the working of the hours of employment regulations ; and (5) periodical reports are also made by both the Central and Local Governments on the working of the Workmen's Compensation Act as well as by Local Governments on the working of the Trade Unions Act and on industrial disputes. All these labour statistics, though available automatically, must be regarded as the most organised systems of enquiries which have been established on a permanent basis. They not only throw considerable light on the working of labour legislation, but are also essential for undertaking further legislative measures.

Special conferences held by the Department of Industries and Labour, whenever the necessity arises for quick and immediate action, may also be regarded among the departmental enquiries inasmuch as employers, employees and technical experts are invited to take part in them. For example, a fire accident in a mine early in 1936 and the possibility of its repetition in other mines led the Department of Industries and Labour to call such a conference, and, on its recommendation, was passed the Indian Mines (Amendment) Act of 1936.

Occasional enquiries are also undertaken by both the Central and Local Governments. The Government of India may undertake such enquiries

either independently through the specially appointed officers, or through Local Governments. The Government of India, for instance, directed the Government of Bengal to undertake an enquiry into the shortage of labour in organised industries in Bengal in 1906.[1] The Government of Bengal undertook an enquiry into industrial unrest in 1921, and the Government of Bombay undertook an enquiry into industrial unrest in 1922 and into the periods of wage payment in 1925. At the instance of the Royal Commission on Labour, several Local Governments made investigations into the wages, earnings and family budgets in their respective provinces in 1930.

The most important departmental enquiry is, however, undertaken at present by the Bombay Labour Office, which, since its foundation in 1921, has become a very valuable source of information on the labour question. The accurate data on hours of work, wages and earnings, and family budgets, are largely the contributions of this Office. A similar Office, established by Burma, has also made contributions to the data on wages, earnings and family budgets in Rangoon. Labour Commissioners have also been appointed in Bengal and Madras, but they have scarcely undertaken any enquiries into labour conditions worth the name.

[1] *Report on Labour in Bengal*, by B. Foley, M.A., I.C.S., Calcutta. 1906.

Public Investigations

Although statistical data on labour published by various departments, as mentioned above, may form a source of labour information, the undertaking of far-reaching labour legislation as well as the development of labour policy depend largely upon public investigations, such as committees and commissions, which the Government of India and local Governments may appoint from time to time. They also contribute much to the creation of public interest and to the development of public opinion on the labour question.

There are some essential differences between departmental enquiries and public investigations. First, while the former is dominated by the official view, the latter generally reflects public opinion. Most of the members of these committees and commissions, including the president, are taken from outside, and although the discretionary power of Government in the selection of membership is not eliminated, there is a limit to which any arbitrary power can be exercised, specially in the presence of intelligent public opinion. Secondly, they are representative bodies inasmuch as employers, employees and the public participate in them. Moreover, if some of the members are not in agreement with the majority, they can express their opinions in a minute of dissent. Thirdly, most of these public investigations are

much more comprehensive than departmental enquiries, and are based upon facts collected from a very wide range and in different parts of the country. Finally, the value of the reports of these committees and commissions does not depend upon their recommendations alone, but also upon the vast amount of evidence which is published separately and which forms the most important source of information for further labour research.

Most of the important legislative measures in India have been based upon the reports and recommendations of committees and commissions appointed by Government. Both the enactment and amendment of factory legislation was, for instance, preceded by the Factory Commissions of 1875, 1884 and 1890, the Textile Labour Committee of 1906, and the Factory Labour Commission of 1907. The enactment and amendment of labour legislation in other fields was also based upon the reports of similar committees and commissions. The landmarks of industrial and labour investigations are, however, the Industrial Commission of 1916-18 and the Royal Commission on Labour of 1929-31; while the former laid down the foundation of national economic policy, the latter formed the basis of most of the recent legislative measures for labour.

The Royal Commission on Labour

The most important public investigation undertaken by Government on the question of labour is,

in fact, the Royal Commission on Labour in India, which was appointed on 4th July, 1929. Its terms of reference were defined as follows: " To enquire into and report on the existing conditions of labour in industrial undertakings and plantations in British India, on the health, efficiency and standard of living of the workers and on the relations between employers and employed, and to make recommendations." The Commission consisted of twelve members,[1] of whom, in addition to the president, one represented the public in general, two the Government, four employers, and four workers. In addition to the regular members, the Commission had, throughout the country, the collaboration of a medical assessor, in view of the importance of the health of workers. The Commission was also helped by assistant commissioners co-opted from each province to represent employers and workers in equal numbers, and also by lady assessors with local knowledge and experience.

The Commission made its report in July, 1931,[2] which falls into six main divisions:

[1] Comprising 6 Indians and 6 Englishmen, such as: Mr. J. H. Whitley, formerly Speaker of the British House of Commons, as Chairman; and the following members: Mr. V. S. Srinivasa Sastri; Sir Alexander R. Murray, C.B.E.; Sir Ibrahim Rahimtoola, K.C.S.I., C.I.E., Sir Victor Sassoon; Mr. N. M. Joshi; Mr. A. G. Clow, C.I.E., I.C.S.; Mr. G. D. Birla; Mr. John Cliff; Diwan Chaman Lall; Miss Beryl M. le Poer Power; and Mr. Kaboor-ud-din Ahmed.

[2] *Report of the Royal Commission on Labour in India*, London, 1931, pp. 580 + xviii.

(1) conditions of employment and work in factory industries; (2) conditions of employment and work in mines, railways, and other forms of industrial activity; (3) the standard of life of the industrial worker; (4) workmen's compensation, trade unions and trade disputes; (5) work and life on plantations; (6) statistics, general administration, and the Constitution in relation to labour. Some special questions relating to Burma are discussed separately.[1]

Reference has already been made to some of the recommendations of the Commission in connection with the development of labour legislation in the foregoing pages and further reference will also be made later on.[2] The report is not, however, without some fundamental defects, of which the most serious one is the lack of comprehending the importance of industrial labour in modern society and the failure to recommend measures for its growth, as will be discussed presently. There are also several minor defects, which may be classified under two headings : (1) the absence of any basic

[1] The Commission visited India twice, and after extensive travel of 16,000 miles and 180 visits to industrial establishments and examination of 490 memoranda and 837 witnesses, including some in the United Kingdom, submitted its Report, together with 11 volumes of evidence to Parliament in June, 1931. The total cost of the Commission has been estimated to be £ 78,750 (or about 10½ lakhs of rupees).

[2] *Cf.* Author's Article; "Royal Commission on Labour in India: Analysis of the Report," *Modern Review*, January, 1932.

principle in some of the recommendations, and (2) the lack of a broader view in others.[1]

Some of the recommendations indicate the Commission did not base them on any fundamental principle and was led by mere exigencies of the conditions rather than by any sound policy as shown by several recommendations. First, the Commission recommended a 54-hour week for non-seasonal factories and surface work in mines but left, at the disposal of the employer or Government, the reduction of the hours for underground work in mines, where they were 54 hours a week, and also on railways, where they were 60 hours a week for continuous work and as high as 84 hours a week for the running staff. This recommendation was criticised by the minority group of the Commission itself. Secondly, the Commission recommended the establishment of statutory wage-fixing machinery on Assam tea-gardens on the ground of inequality of bargaining power, but not in other industries or even on plantations in other provinces, although the same inequality of bargaining power had existed, and for this omission the Commission was criticised by one of its own members and also by the representatives of the tea garden industry, who felt that

[1] For a full criticism of the report on the Royal Commission on Labour, see Author's article : "Royal Commission on Labour in India : Observation on the Report," '*Modern Review*, Calcutta, May, 1932.

they were singled out for a new experiment. Finally, the Commission recommended the introduction of works committees in factories, mines and railways but not on plantations where the workers had lived for over two generations without having any opportunity of expressing their grievances.

The omission of recommendations for works committees on plantations might be explained on the ground that most of these workers were ignorant and lived on the premises of plantations, and were unable to organise themselves for any effective purpose. But this very fact makes it all the more necessary to give them a chance to organise themselves into some kind of works committee, through which they could bring their grievances before employers and might even indirectly elect their representatives to the district or provincial works councils, and the latter could send workers' representatives to the wage board, the appointment of which has been recommended by the Commission.

The lack of a broader view in some other recommendations is still another defect of the report, as indicated by several facts :—First, the Commission recommended the introduction of compulsory education by coal mines, and also education of workers' children by factories and municipalities, but most of the workers being migratory, education to be effective and to achieve

its aims, must be made universal and compulsory which the Commission failed to recommend. Secondly, the Commission seems to have realised the importance of workers' suffrage in certain localities, but to have failed to recommend universal suffrage, at least in local affairs, which has become essential in view of the fact that industrial centres are scattered all over the country. Finally, the Commission realised the insufficiency of workers' wages for their welfare but failed to recommend any broad measures for the development of national economy and modern industry which alone could ensure the possibility of workers' higher income. It may be said that the terms of reference under which the Commission worked were limited but this very limitation shows the weakness of such commissions and committees in the development of social policy.

In spite of these defects, the report of the Royal Commission on Labour is a valuable contribution to the cause of Indian Labour. The Commission has attempted to take a long view in many of its recommendations and to formulate "a considered programme for the development of a labour policy"[1] with a view to enabling workers to share with employers some of the fruits of industry in the form of reduced hours, a living wage and welfare work, and also to

[1] *Cf. Report of the Royal Commission on Labour in India, p. 4.*

take part in those affairs in industry which vitally affect their welfare, e. g., works committees, wage boards and industrial councils. Moreover, the Commission has drawn public attention to the cause of labour, presented precise and elaborate surveys of many aspects of life and labour in organised industries, and made a series of recommendations, some of which have already been given effect to by both the Central and Provincial Governments, while others form the basis of further legislation.

Representation of Interests

Another important factor in labour legislation is the representation of interested parties. As indicated above, the views and opinions of local Governments as well as of employers' associations, employees' organisations and other interested parties are duly considered in all departmental enquiries and what is more, both employers and employees are represented in all public investigations. Most of the members of the committees and commissions visit industrial plants as well as workers' quarters, and they are also very often assisted by assessors from both employers' and employees' groups with the special duty of bringing forward witnesses to represent their class interests.

Nor does the representation end in enquiries and in investigations. As soon as proposals are formulated and a bill is adopted, it is submitted to local Governments, to employers' and employees' organisations and to other interested parties for their opinions and criticisms. Moreover, there are also representatives of both parties in the Legislative Assembly as well as in the select committee before the bill is finally considered and enacted. It must also be mentioned that labour is at present represented in the Legislative Assembly only by one nominated member and there is no labour representative in the Council of State, though there are several public spirited men in both the Chambers who take an active interest in the cause of labour as well as in the well-being of the country as a whole. In the coming federal legislature, however, labour will be much better represented and in the provincial legislature under the new Constitution, labour has acquired a much larger representation as will be discussed later on.

Labour representation at present takes place, however, only indirectly. Indian labour is mostly illiterate and uneducated and not in a position to represent its own interests in any public organisations, such as committees, commissions, legislatures, and conferences. It is mostly outsiders, such as social workers, political leaders, lawyers and professors, who represent their interests. This was also the case in the beginning of the labour

movement in other countries. But although organised industry has developed in India for over two generations and over five million workers are employed in them they have not yet been able to find leaders from their own rank.

The indirect representation of workers has some serious defects: (1) it fails to carry much weight with employers and the Government and also to make any effective impression upon the public; (2) it makes them liable to exploitation by designing persons who may use the cause of labour as a stepping stone to their own personal ambition; and (3) it is a hindrance to the creation of self-reliance and self-help among workers for the protection and development of their own welfare. What is needed is the training of workers for conducting their own organisations and for presenting their own case before the public. Although most of the workers in plantations, mines and factories are illiterate and ignorant, there are considerable numbers of educated men among foremen and other lower-grade officers, especially among railway employees, who may be easily trained to represent the rank and file of the workers.

3. Enactment and Enforcement

The enquiries and investigations as well as the recommendations based upon them are merely preliminary works for the development of labour

legislation. Proposals for labour legislation must pass through different stages before they can become Acts. First, the proposals must be formulated into a draft Bill; secondly, the Bill must pass through the Legislature and be assented to by the Governor-General ; thirdly, there must be administrative regulations before the act can be given effect to; and finally, there must be provisions for the enforcement of the law.

The Drafting of the Bill

Proposals for labour legislation may arise from any of the following sources, namely: (1) the agitation of philanthropists or public men who have played an important part, either through the platform or the press, in the development of labour legislation in all countries; (2) commercial rivalry such as that between the Lancashire cotton manufacturers and the Bombay cotton mill-owners, the former being responsible for the enactment of the factory legislation in the early days of the factory system in India ; [1] (3) the initiative of Government itself, which, realising the danger in some industries, may take steps to remove some of the conditions detrimental to the health and safety of the workers; (4) debates and resolutions in the

[1] *Cf.* See Author's *Factory Legislation in India,* 1923, Chaps. ii and iii.

Legislature, both central and provincial, demanding legislative or executive actions for regulating labour conditions ; (5) the demand of labourers or their leaders, who have recently begun to become class-conscious and have suggested measures for the improvement of their conditions; and (6) the International Labour Conference, which has since 1919 become a most important force in national labour legislation in most countries.

After the proposals have been accepted, or decisions have been made for legislation, the first question arises as to the formulation of the measures into a draft Bill, which involves two processes : (1) the definition of the objects and reasons of the measures; and (2) the putting of the proposals into precise legal terms, so that all the subsequent interpretations of the provisions may conform to the avowed objects and reasons. The draft Bill may be circulated for eliciting public opinion, and in that case the Bill may be redrafted in the light of suggestions, opinions and criticisms of the parties concerned or of the public in general. In some cases, the Bill may be circulated even after it has been introduced, and may be redrafted before reintroduction into the legislature.

The Passing of the Act

The next step is the enactment by the Legislature, which consists of several stages : (1) the introduction of the Bill into the Legislative

Assembly, when it may be debated by all the parties concerned; (2) the reference of all the Bill to a select committee, when it may be again debated by the interested parties; (3) the close study of the Bill by the select committee, which is an important stage inasmuch as it may undergo radical changes under expert advice; (4) the consideration of the Bill as it emerges from the select committee, by the Legislative Assembly, and the debate clause by clause before the Bill is adopted and amendment is made ; (5) the consideration of the Bill, as passed by the Assembly, by the Council of State, which may again amend the Bill, and in case of such amendment it has to be sent over to the Assembly for agreement; and (6) the assent of the Governor-General, as a party of the Indian Legislature, to the Bill in order to make it an act. Unless specially mentioned in the Act itself, the date when it will come into force is left to the discretion of the Governor-General in Council.

In the case of provincial legislation, the procedure under the old constitution was almost the same as in the Central Legislature, except for the fact that the assent of the Governor-General in Council was required before a labour measure, which, as a "reserved" subject, could be introduced into the provincial legislature. Moreover, the provincial legislature was a single-chamber body, and the process of enactment was also

simple, but, after the assent of the Governor, the Bill had also to be assented to by the Governor-General in Council before it could become an Act in any province. Under the new Constitution, provincial Governments have concurrent power in the enactment of legislation in certain labour questions. As in the case of the Central Legislature, in various stages of the enactment, all interested parties, such as employers, employees, and the public and Government have chances for amendment of the Bill in the process of its becoming an act.

Administrative Regulations

Besides the legislation proper as enacted by the central or provincial legislature, the administration of the law calls for further legislative action, inasmuch as the regulations must be made under these legislative measures before they can be enforced. These regulations include rules, bylaws, executive orders, and court decisions which are made by the competent authorities in the exercise of their administrative powers, and which have the same force as the act itself.

Among the competent authorities empowered to make such regulations, the most important are the following: (1) the Government of India; (2) the local Governments; (3) coal and other mines as far as bylaws are concerned ; (4) the inspectorate; (5) the Controller of Emigrant Labour;

(6) the mining boards and committees; (7) workmen's compensation commissioners; (8) the registrar of trade unions; (9) courts of enquiry and boards of conciliation under the Trade Disputes Act of 1929 and the Government labour officer and the chief conciliator, as provided by the Bombay Trade Disputes Conciliation Act of 1934.

Besides the labour acts proper and the regulations made thereunder, there are also other acts and regulations which control both the working and living conditions of workers. Most of the organised industries, such as plantations, factories, mines, railways and steamships, work under a number of regulations regarding the use of power of machinery, construction of plant, sanitary arrangements, safety provisions, supply of drinking water and conservancy and sewerage systems. All these acts and regulations are the concerns of the central and local Governments as well as district boards and municipalities, and may be regarded as supplementary to labour legislation and the regulations made thereunder.

The powers to make regulations are granted by these acts to different authorities. The most important powers for making regulations under labour legislation are granted to the Government of India, which exercises them in a threefold capacity: (1) as a supreme authority in legislation, the Government of India may extend the scope of

any act, by notification in the Gazette of India, thus supplementing the legislative measures whenever they are necessary, *e.g.*, the regulations of 1929 for the gradual elimination of women from underground work in mines; (2) as administrator of certain labour acts, the Government of India may make regulations under those measures which are directly its own concerns, such as railway and mining labour; and (3) the Government of India may also make regulations under those measures which come under the jurisdiction of its legislative power, but the administration of which is given over to Local Governments.

Local Governments also enjoy large powers to make regulations : (1) subject to the control of the Central Government, they may, by due notification in the local gazette, extend the scope of an act, as in the case of the Factories Act; (2) they may make supplementary regulations under those measures, the administration of which is the direct concern of the Central Government; (3) they may make regulations under those legislative measures, the administration of which is primarily their own concern; and (4) they may also make regulations under those legislative measures which they have themselves enacted, *e.g.*, maternity benefit acts.

All these regulations are essential for the proper administration of the law. The provisions of the acts are often very general and the legislature leaves the detailed regulations to the administration

of the Central and Local Governments. Moreover, large mines are required to pass bylaws which, when approved by the competent authorities, have the same effect as acts and regulations, and the observance of which becomes obligatory upon managers. foremen and workers in a mine. The executive orders of the inspectors are still another class of important regulations. Both the Factory Act of 1934 and the Mines Act of 1923 [1] as amended in 1935 grant, for instance, powers to inspectors to serve, in the case of any danger to life and safety, on the manager an order in writing specifying the measures which, in their opinion, must be adopted within a certain period. What is more significant is the fact that these inspectors are empowered to prohibit the working of a factory or a mine until certain danger has been removed. Similarly, the Commissioners for workmen's compensation [2] are empowered to settle any dispute arising from the proceedings of the act as to the liability of a person to pay compensation and the duration of the compensation. The decisions of the boards of conciliation and the Bombay conciliator are not obligatory but they are invested with the same powers as the courts under the Code of Civil Procedure, 1908, in pursuing their work.

[1] Section 25 and Section 19 respectively.

[2] *Cf.* Section 19 of the Workmen's Compensation Act of 1923.

The importance of such administrative regulations becomes evident for several reasons; First, they secure the flexibility of an act according to the changing conditions in industrial and technical organisation so that the Government of India may extend its scope or make the necessary changes in conformity with its spirit at its own discretion without referring it back to the legislature for amendment. Secondly, in a vast country like India, where the conditions vary from province to province, local Governments must have discretionary power to make regulations suitable to local conditions, provided that they are consistent with the act. Finally, the rules, bylaws, executive orders and court decisions, although involving personal discretion, make an act more adaptable to the varying conditions of an industry.

General uniformity among these regulations made under an act is maintained in the following ways: (1) the Governor-General in Council may make regulations only by due notification in the Gazette of India and in consistence with the act; (2) the local Government may make rules only subject to the control of the Governor-General in Council, by notification in the local official gazette, and in consistence with the act; (3) a mine may make bylaws in consistence with the act and subject to the approval of its draft by the chief inspector of mines, or even a mining board if necessary, and finally with the approval of the

local Government; (4) the executive orders of inspectors are subject to the regulations of the local Governments and also to appeal by employers to the local Government. Moreover, it must also be remembered that all the inspection of mines is under the control of the chief inspector and of railway labour inspectors under the supervision of the railway supervisor and the Railway Board, and factory inspectors also occasionally meet to compare notes.

Enforcement of the Law

The most important part of administration lies, in fact, in the enforcement of the law, which consits of the following : (1) inspection in order to determine whether the provisions of an act as well as the regulations made thereunder are observed or not; (2) adjustment of the claims of workers upon employers, as in the case of compensation and wage payment, and the settlement of any dispute arising between the two parties ; and (3) prosecution of violators of the law and the infliction of penalties in the case of conviction.

The first step in the enforcement of the law is provision for inspection, for which the law provides the appointment of qualified and competent authorities, who may be either *ex-officio* inspectors or specially appointed inspectors, the latter including chief inspectors and inspectors as well as their assistants. The most important part of inspection

is entrusted to specially appointed inspectors. Their work is often supplemented by other administrative officers or bodies, both executive and judical, who are specially appointed under different acts for the administration of the law.

The *ex-officio* inspectors are those officers of Government such as district magistrates, police superintendents and health officers, who, in addition to their usual duties, are empowered to inspect industrial plants within their respective jurisdictions. Every district magistrate, for instance, is an *ex-offico* inspector of factories in his own district, and may also exercise the powers and perform the duties of an inspector of mines subject to the general and special orders of the local Government. All the principal officers of the mercantile marine department are *ex-officio* inspectors within the limits of their charges. The inspection of plantations is mostly done by *ex-officio* inspectors in Assam.

Inspectors are appointed by both the central and local Governments. The Governor-General in Council, for instance, may, by notification in the Gazette of India, appoint (1) the Chief Inspector of mines for the whole of British India and also his subordinate inspectors; (2) the Controller of Emigrant Labour and his deputies; and (3) the supervisor of railway labour. The local Government may, by notification in the local official gazette, appoint such persons as it thinks

fit to be inspectors for the purpose of any act within such local limits as may be assigned to him such as (1) factory inspectors, (2) dock inspectors. The factory inspectors have also been appointed inspectors under the maternity benefit acts in some provinces and also as inspectors under the Payment of Wages Act of 1936.

The powers and duties of inspectors are defined by the provisions of the Act, which state that every inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code (XLV) of 1860, and shall be officially subordinated to such authorities as the Central or Local Government may appoint. The Factory Act of 1934, for instance, defines the power of an inspector in the following terms : Subject to the rules made by the Central and Local Governments, an inspector may, within local limits for which he is appointed, enter any place which he thinks to be a factory or capable of being declared to be a factory with a view to examining the premises and plant and exercising such other powers as may be necessary in order to carry out the purpose of the Act. The other Acts grant similar powers to the inspectorate.

Although imperfect in the beginning, the system of inspection has gradually improved in almost all industries. The inspectorate has been enlarged and has also been granted more and more power. The inspection consists of several functions,

namely : (1) regular and surprise visits to industrial undertakings with a view to finding whether all the conditions required by the law are fulfilled or not ; (2) occasional advice to employers as to the matter of devising means for improving sanitation and providing safety ; (3) the giving of warnings, generally written, for taking, by employers, of precautions against some imminent danger or some fundamental defects in sanitation or safety provisions, or even against neglect in the observance of some provisions by the Act ; (4) prosecution of the violators of the law before ordinary or special courts provided for under the act ; (5) the granting of sanction to workers for bringing suits against employers as required by the provisions of some acts ; and (6) rectification of violations of railway regulations in collaboration with the local supervisory staff, whenever possible, as provided by the railway labour regulations.

The second point in the administration of the law is the adjustment of claims of workers or of employers under the Workmen's Compensation Act of 1923 and the Payment of Wages Act of 1936 as well as the settlement of industrial disputes between the two parties by competent authorities under the Trade Disputes Act of 1929 and the Bombay Trade Disputes Reconciliation Act of 1934. The administrative and judicial authorities under these Acts may be appointed by both the Central and Local Governments.

The Governor-General in Council may, by notification in the Gazette of India, appoint (1) a compensation commissioner or other officer with experience as a judge of a civil court or a stipendiary magistrate for the adjustment of the claims of railway employees under the Payment of Wages Act of 1936 ; and also (2) courts of enquiry and boards of conciliation in the case of industrial disputes, where the Government of India is the employer. Reference has already been made to the appointment of the Controller of Emigrant Labour who has the double function of an inspector in the case of recruitment and of the adjustment of the claims in the case of repatriation. The Local Government may, by notification in the local official gazette, appoint (1) commissioners for workmen's compensation, who may also act in the case of all claims under the Payment of Wages Act, except those relating to railways, (2) mining boards and committees, (3) courts of enquiry and boards of conciliation in the case of all industrial disputes except those which are the concerns of the Central Government, and (4) the Bombay Labour Officer and Councillor.

The powers and duties of these administrative officers[1] are also defined by these acts. They

[1] Such as commissioners under Section 23 of the Workmen's Compensation Act of 1923, courts and boards under Section 9 of the Indian Trade Union Disputes Act of 1923 and the Conciliator under Section 12 (1) and (2) of the Bombay Trade Disputes Conciliation Act of 1934.

shall have the same power as those vested in courts under the Code of Civil Procedure (No. V) of 1908, when trying a suit in respect of the following matters : (*a*) enforcing the attendance of any person and examining him on oath ; (*b*) compelling the production of documents and material objects ; (c) issuing commissions for the examination of witnesses, and shall have such further powers as may be prescribed. Moreover, every enquiry or investigation by court or board shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of the Indian Code (No. XLV) of 1860.

Finally, the administration of the law consists also of the provisions for prosecuting the violators and for inflicting penalties if they are convicted. The main object of penalties and prosecutions is to make them deterrents to violation rather than to victimise the violators. As in the case of most other provisions these penalties and prosecutions have undergone improvement in recent years. Penalties have been better adjusted to offences and higher penalties have been provided for repeated offences as in the case of the Mines Act of 1923, as amended in *1935* and the Factories Act of 1934.[1]

Reference has already been made to various cases of violation of the law and the penalties

[1] *Cf*. Section 40 (2) and Section 61 respectively.

inflicted thereunder in the case of all convictions. While they imply that the law is in force or the enforcement of the law is actively pursued, there are no indications of the proper observance of the law or of its beneficial effect inasmuch as prosecutions depend a good deal upon the attitudes and activities of individual inspectors. Some of them are stricter in securing the compliance of the law and may have more easily recourse to prosecutions, while others are more prudent and may have the same or better results with advice and persuasion.

What is more important is the provision for prosecution which involves several questions such as (1) responsible persons to be prosecuted, (2) competent authorities to conduct prosecution, and (3) competent courts to hear cases or to receive appeals from other courts. Responsible persons liable to prosecutions are also defined by legislation. The Factories Act, for instance, requires a factory to designate a person as the occupier, *i. e.*, the person who has the ultimate control over the offices of a factory and in case such offices are trusted to a managing agent that agent should be deemed to be the occupier. Similar provisions have been made by other legislative measures. Competent officers to conduct prosecutions are the following : (1) inspectors of factories and mines and supervisors of railway labour ; (2) commissioners appointed under the Workmen's Compension Act ; and (3) the Bombay Lobour

Officer. For the discharge of these functions, they are granted special powers under repective Acts. Competent courts to hear the cases are also defined by legislation. Most of the cases under labour legislation are tried by courts specified by various Acts,[1] which lay down that no court inferior to that of a Presidency Magistrate or of a magistrate of the first class shall try any offence against that Act or any Rule or Order made thereunder.[2] Appeals from these decisions may be made either to an appelate court or the High Court of a province.

An essential feature of labour legislation is the fact that the enforcement of the law is entrusted to a specially appointed officer,. either executive or judicial, who works on behalf of the worker and is empowered to settle his claims and grievances with the employer. It is only when he is unable to do so that the worker can bring the cases before a competent court. This officer is the prosecutor in most labour cases and even when the worker himself is entitled to bring a suit against the employer, he can do so in most cases only with the permission of this officer. Both the Mines Act of 1923 and the Factories Act of

[1] *Cf.* The Mines Act of 1923, Factories Act of 1934, Dock Labourers Act of 1934 and Bengal Workmen's Protection Act of 1935.

[2] The Factories Act of 1934 makes an exception in the case of an offence relating to smoking or using naked light in the vicinity of inflamable material or using false certificates.

1934, for instance, lay down that no prosecution shall be instituted except by or with the previous sanction of the inspector.[1] The Payment of Wages Act of 1936 makes a similar provision in certain cases and provides in others that no prosecution shall be instituted until a successful complaint has been made before the proper authority and due sanction has been granted for the purpose.[2]

[1] *Cf.* Section 41 and 74 (1) respectively.

[2] Section 21.

CHAPTER III

FUNDAMENTAL PRINCIPLES

The above survey indicates that although the protection of labour in each industry or organised industry as a whole is the motive force of labour legislation, there are other factors which influence the course of its development and determine its nature. Of these factors, the most important are, first, the abolition of servitude and the establishment of free contract and equal opportunity for workers in their bargaining power; secondly, the development of physical and mental resources of the working classes which form an increasingly large proportion of the population, with a view to securing the welfare of the society as a whole; thirdly, the betterment of working and living conditions of the labour population in order to increase industrial efficiency and assure the increase of national productivity; and finally, amelioration of national labour conditions through international labour agreements. All these underlying forces or factors of labour legislation may thus be classified under four categories, namely: (1) social justice; (2) social welfare; (3) national economy; and (4) international solidarity.[1]

[1] It is evident that the line of demarcation between one principle and the other is often very narrow and they even overlap, thus making the classification of labour measures under these headings both difficult and arbitrary.

1. Social Justice

An outstanding force in social evolution is social justice or the establishment of equality in social relationship. The domination and exploitation of one individual or class by another was not unknown in tribal groups, but it was the conquest and subjugation of one tribe by another that led to the origin of slavery and serfdom and also laid the foundation of what may be called the modern State. Might became right and slavery and serfdom, established by force, were legalised by the State and sanctioned by the Church. Moreover, all social, political and economic privileges were monopolised by a few dominating classes, thus facilitating the exploitation of the unprivileged by the privileged. While this exploitation is going on even to-day, the former have a new social status inasmuch as they stand equal with other classes before the law and have even acquired political suffrage in most advanced countries.

The first step in establishing social justice is of course to protect those who cannot protect themselves. Modern industrialism, involving the use of power machinery and large-scale production and giving rise to industrial towns, has brought about complete changes in the working and living conditions, some of which are detrimental to the moral, material and intellectual welfare of workers. Since workers, especially women and children, are often unable to protect themselves,

the State, the supreme authority, and the guardian of the people, has undertaken legislative measures on their behalf. But, although protection was, and to a large extent still is, the predominating principle of labour legislation, it has been gradually realised that such protective measures are equally, if not more, beneficial, both morally and materially, to society itself. Instead of being a mere act of benevolence, labour legislation has thus become an important means to the moral and material welfare of the working classes and to the creation of better opportunity on their behalf to protect their own interests and establish their own rights in modern society.

The guiding principle of labour legislation is the establishment of social justice or an equitable relationship between employers and workers. In spite of political equality, there exists a great divergence between employers and workers in the economic status which often deprives the latter even of some of their political rights. The lack of economic security and even of educational facilities and organising power makes the actual position of workers much inferior to that of their employers. Yet the very existence of a democratic society depends upon administration of social justice to all classes of people. It is on the principle of social justice that the State undertakes to equalise the status of workers with that of employers, to grant them freedom of association and the

power of collective bargaining and to mediate or arbitrate in the case of industrial conflict, which may be injurious, not only to workers and employers but also to the whole society, of which they form only a part.

Abolition of Servitude.

The first condition for equalising industrial relationship between employers and workers is the abolition of servitude. Labour has passed through different stages in the process of social evolution which may be classed under four headings, namely:—(1) slavery; (2) serfdom; (3) indenture; and (4) free contract. Under slavery the labourer was regarded not as a human being but merely as a chattel, which was the personal property of his master and which like implement and livestock, could be bought and sold in the market. Under serfdom the labourer achieved a certain amount of freedom; he was free part of the time and was obliged to serve his lord only when called upon; but although social custom restricted his absolute right, the lord wielded great power over the life and labour of the serf, and the latter could achieve his freedom only by cash payment or flight. Under the indenture system,[1] the labourer

[1] The world "indenture" is used here in a general sense of all contract labour providing criminal punishment for the neglect of duty,

acquired a still larger amount of freedom ; he had to serve only for a fixed period of time and often at the stipulated rate of wages, though desertion, idleness or neglect of work still made him liable to criminal punishment, such as imprisonment or fine or both. It is only under free contract that the labourer has acquired full freedom and the right to bargain with his employer on an equal footing.

Servile labour has a mainfold origin, namely, racial, social, political and economic. First, most of the slaves and serfs originally belong to the aboriginal races and were subjugated and taken as bondsmen by their conquerors under a new social, political and economic order. Secondly, division of labour, creating first social distinction and then social class or caste, often among the same racial group, facilitated the exploitation of the so-called lower class or caste by the higher Thirdly, poverty and destitution have also forced some people to become servile labourers to others simply for the sake of avoiding death from starvation. The creditor had enjoyed the right of enslaving his debtors simply because of the latter's inability to pay, and relics of this system are still in existence in the custom of imprisonment for debt at the discretion of the creditor. Finally, forced labour has

breach of contract or desertion. *Cf.* Commons, John R. and Andrews, John B., *Principles of Labour Legislation*, New York, 1936, pp. 316-29.

often been resorted to whenever a chief, lord or king had to undertake the construction of roads, canals, monuments, temples, palaces and other works of a public character.

Whatever may be the origin, servitude has proved to be one of the greatest social evils inasmuch as it has degraded one class of people into sub-human condition and demoralised the other into tyranny, arrogance and false prestige, thus acting as a double-edged evil to the detriment of social progress. Social progress depends upon the full development of the physical and mental resources of all men and women for the benefit of society, and freedom is an essential condition for the development of social, political and economic activities :—first, the desire for direct or indirect benefit in production is the greatest motive force in the full development of one's economic activities ; secondly, the growth of civic life, including both the sense of rights and duties depends upon personal liberty in thought and action and the equality of all persons before the law ; finally, moral and spiritual sentiments find their finest expression only in the atmosphere of mutual respect, confidence and fraternal feeling.

It is the realisation of these evils that led all great men, whether philosophers, preachers, or reformers, to denounce all kinds of servitude and to preach the gospel of 'liberty, equality and fraternity' as the fundamental and inalienable rights of

man. The question of establishing these fundamental and inalienable rights in a new social order became an important issue in the eighteenth century and formed the most important social forces of the American War of Independence and of the French Revolution. The constitutions of both France and the United States are based upon these declared rights. The British constitution progressed through centuries towards the same goal and was aided both by Parliament and the Court. Although the British constitution in India is based upon some of these fundamental rights, they are neither complete nor explicit. In view of the fact that India has been under different rules in different epochs and there exist differences in race, caste and creed, nothing could be better for her than to have these rights declared as the fundamental rights of the people.

These fundamental rights are the basic principles of modern democracy on which depend personal liberty and free citizenship. Free citizenship confers upon a person a triple right, namely, (1) to acquire and possess property, (2) to enjoy freedom of speech and association, and (3) to exercise political suffrage. Private property is justified on the ground that it helps in building individual character, in giving economic security and utilising it as capital for further production. Labour, which constitutes the means of livelihood to a growing number of the population, is inseparable from per-

sonal property and thus becomes the exclusive possession of a person for his free disposal. Freedom of speech and association is also indispensable to a person for the exercise of his liberty, for the acquisition and maintenance of property and for the promotion of his own welfare. Finally, suffrage is an essential condition as it gives a man the right to elect his own representative in the legislature for defending his vital interest.

Like most other countries, India had also her slavery and serfdom, the vestiges of which exist even to-day. "There are traces of feudalism" says the Royal Commission on Labour, "to be found in many parts of the country ; and in a few areas there is still a system of bond-service, which is not far removed from slavery."[1] They have been of a twofold origin, namely, first, those which had existed as custom in India from time immemorial and were sanctioned by both the Hindu and Islamic law, specially in connection with agriculture and domestic service. Slavery was prohibited in India by the Indian Slavery Act of 1843 enjoining the Court not to enforce or recognise the claim of any person upon a slave and was finally abolished by making slave holding punishable under the Indian Penal Code (XLV) of 1860. Secondly, a new class of servile labour was also created by Acts and

[1] *Report of the Royal Commission on Labour in India*, p. 15.

Codes making breach of contract and neglect of duty a criminal offence during British rule. The origin of such statutory servitude began in 1806 and ended in 1931.

The most important forms of servitude coming down from olden times as customary law are the following: (1) the *hali* (plough) system in the Bombay Presidency[1]; (2) the *kamiauti* system in Bihar; (3) the *ghoti* or *vetti* and *khambari* systems in Madras, the Central Provinces and several Indian States[2]; and (4) the *bhagela* system in Hyderabad and other parts of India. The essential feature of all these systems is that a man is given on the occasion of his marriage a cash advance, housing accommodation and payment in kind, on all of which his labour pays the interest but never repays the capital. He is not permitted to leave without refunding the original sum advanced. Thus servitude becomes hereditary and involves all the members of his family. He becomes a virtual serf and can be sold or mortgaged. His freedom depends on a cash payment which is impossible for him to do, or on flight which involves the risk of being caught and brought back to his old master.

1 *Census of India*, 1921, Vol. I, Part I, p. 246.

2 Royal Commission on Labour in India, *Evidence*, Vol. VIII, Part 2, pp. 14-15; *Report of the Royal Commission on Labour in India*, p. 362.

The inequity of this system of servitude which is practically serfdom, has been gradually realised, and in 1920 the Bihar and Orissa *Kamiauti* Agreements Act[1] was passed, declaring the *Kamiauti* Agreements null and void, if they extended over a year and were not written in a duly stamped document, if the *Kamia* (person performing the labour under the agreement) were not given a copy of the original agreement and the liabilities in respect of the same were not extinguished on the expiry of these agreements, and if the wages were not fair and equitable.

Among other relics of servile labour are, first, the pledging of child labour or the mortgaging of the labour of children by their parents or guardians for advances received, and secondly, forced labour or the requisitioning of people to work for nominal pay or without pay. The pledging of children had existed in agriculture and domestic service almost all over the country and has recently been brought under legislative control. Forced labour has been utilised from time immemorial and is in existence even to-day in both Indian States and British provinces. The Government of India, has, however, recently issued orders prohibiting the exaction of certain forms of forced labour, and has asked

1 The Bihar and Orissa Kamiauti Agreements Act (VIII) of 1920. *Cf. Bihar and Orissa Gazette*, 10 November, 1920.

both provincial Governments and Indian States to take similar measures.[1]

The origin of the indenture system or labour under penal sanction may be traced to the first period of British rule under the East India Company. The earliest statute legalising forced labour was the Bengal Regulation XI of 1806 as amended by the Bengal Regulation III of 1820 and that making neglect of duty a criminal offence was the Bengal Regulation (VII) of 1819 applicable to all workers engaged for a specified period for the performance of a definite piece of work, when they had accepted any advance of money or had been transported to the place of work by the employer.[2] It was not until slave holding became a punishable offence in 1860 that this Act was abolished by the Act (VII) of 1862. In the meantime, the Workmen's Breach of Contract Act was passed in 1859 against those who had received advances of money for work, but refused to fulfil the engagement. This Act was supplemented by sections 490 and 492 of the Penal Code of 1860 making breach of contract a criminal offence in the case of persons who had been transported to the place of work at the em-

[1] *Cf. Legislative Assembly Debates*, 30 September and 8 October, 1936 ; *The Hindusthan Times*, 1 and 9 October, 1936.

[2] There was also the Bombay Regulation XII of 1827, against the neglect of duty which was punishable with a fine of Rs. 10 or a simple imprisonment of 14 days or both.

ployer's expense and refused to work. In the same year was also passed the Employer's and Workmen's (Disputes) Act making breach of contract a criminal offence. With the rise of plantation industries, other Acts were also passed providing penal sanction for the employment of labour on Assam tea gardens and also on plantations in Madras and Coorg, as have already been discussed. All these Acts and Codes were abolished and the last vestige of servile labour under penal sanction disappeared at least from Statute books in 1931.

Labour in organised industries, except on plantations, has however been free from the very beginning. There has always been a great potential supply of labour for all classes of organised industries and it was only the lack of any concerted and well-directed effort on the part of employers which caused the shortage of labour in such industries as coal mines and plantations. The ignorance and poverty on the part of workers as well as lack of transport facilities also added to the difficulties of labour supply. At present, most of the organised industries, such as factories, mines, transport systems and plantations excepting those in Assam, are well supplied with labour. As a matter of fact there is now an over-supply of labour in most industries. Moreover, labour is free of any kind of restriction on its movement and employment. Most of the labour Acts, such as those in relation

to factories, mines, transport, and even Assam tea gardens, as well as Acts relating to workmen's compensation, trade disputes, maternity benefit, and payment of wages, are based on the assumption of the equality of status between employers and workers.

The rise of free labour does not imply the absence of any contract of service. In fact, the contract of service governs all questions relating to engagement, leave, dismissal, discipline and payment of wages. This is however a civil contract and there is no criminal penalty in the case of breach. The contract may be either in writing or verbal. In Government employment, the contract of service is regulated by *Fundamental Rules* and *Supplementary Rules* as laid down by the central and provincial Governments respectively. Railways and municipalities together with other public and semi-public organisations and industrial enterprises, often follow the same rules. But in the case of private organisations and enterprises, which employ the bulk of industrial workers, there is not any written contract and the terms and conditions of service are a matter of custom. The Fawcett Committee of 1928-29 formulated the basis of contractual relationship between employers and workers in the Bombay Presidency [1]

[1] *Cf.* Royal Commission on Labour in India : *Evidence*, Vol. I, Part I, Bombay Presidency, p. 145 ; *Labour Gazette*, March, 1929, pp. 681-88.

and if given effect to, they will raise the status of workers in their relationship with their employers.

Freedom of Association.

Labourers should not only enjoy personal liberty in pursuit of their own welfare, but should have also freedom of association for the achievement of group interests. In modern society not only industrial undertakings are well organised, but similar and kindred industries are combined under different systems such as cartels, trusts and "gentlemen's agreements," and it is almost impossible for individual workers, most of whom are too experienced and needy, if not ignorant and poor, to make any bargain in their favour. Trade unionism has thus become inevitable for workers to maintain their standard of living through collective bargaining, to which freedom of association is a necessary step.

Indian workers have the advantage of achieving, as the subjects of the British Empire, some of the rights which the British workers have achieved through struggle for about a century. In the absence of any statutory law in India, British law may not be implicitly applied but it helps in the

enactment of similar law in India and often the provisions of Indian law are based upon those of British laws with due modifications. This was especially the case in respect of the trade union legislation in India. The British Trade Union Act of 1871 did not grant to workers full right of trade unionism and an attempt was made in the famous Taff Vale Railway case in Great Britain to break up unionism by obtaining in the court a heavy damage and permanent injunction. The British Trade Union Act was therefore amended in 1906 protecting unions from such prosecution and also in 1908, making political activities of the union legal under certain conditions. Moreover, following the general strike of 1926, the British Trade Union Act was again amended, making illegal a sympathetic strike or a strike intended to coerce the Government directly or indirectly through causing great distress to the public as a whole.

In the beginning of the Indian trade union movement, attempts were in fact made to extend the scope of the Indian Companies Act (VII) of 1913 to trade unions. But under that Act there would have been no safeguard for legitimate activity of the officers and members of trade unions in the case of strikes or lock-outs. If it would have been necessary to induce workmen to break their contract with their employers, they could be sued in the Civil Court under the English Common

Law, and might in certain circumstances be liable to criminal prosecution. This law was actually applied by the High Court of Madras to some members of the Madras Trade Union, who took part in the industrial dispute of the Buckingham Mills in 1920-21 and formed a lock-out committee.

With a view to avoiding these difficulties the enactment of a new legislative measure became necessary in India and a Trade Union Act was passed in 1926, as noted before. It differs from the British law in the fact that protection is granted only to those unions which are registered under it. They are required to have audited accounts and a majority of actual workers in the executive of the union. Moreover, they are prohibited from using their funds for political activities, though they may contribute separate funds from contributions separately levied, from which payment may be made for the promotion of the civic and political interests of their members. They have acquired, however, the right of free association through the Act of 1926 ; Sections 17 and 18 of the Trade Union Act recognised the right of union officers to take active part in industrial disputes, whether strikes or lock-outs. These provisions specifically say that no officer or member of a registered trade union shall be liable to punishment under the Indian Penal Code in respect of an agreement made between the mem-

bers for the furtherance of its interests or under the Civil Code for inducing other persons to break a contract of employment and for any tortious act done in contemplation or furtherance of a trade dispute.

The right of workers to form trade unions outside the Act has also been retained as the registration has been made optional under the Act. Compulsion would have necessarily involved penalties for evasion and introduced in India a principle of legislation attempted in England long ago and abandoned as inequitable. But the immunity from prosecution for Acts in furtherance of trade disputes is granted only to those who belong to the unions registered under the Trade Union Act of 1926.

Collective Bargaining.

While the freedom of association and the right of trade unionism, registered and working under the Trades Union Act, have given workers power to carry on their group activities and achieve some of their objectives, this did not carry them much further towards their goal, *i.e.*, collective bargaining, which is essential for improving their working conditions and standard of living. In this respect most of the trade unions in India have not made much headway.

In the beginning of the trade union movement, Government was opposed to any organised activities among its employees and prohibited them from submitting any collective memorials or petitions. After 1920 Government granted the right of collective activities to those unions of its employees which accepted the *Recognition Rules*, and even conceded to them the right to have outside leadership. Moreover, recognised unions were permitted to conduct negotiation with Government on behalf of their members. But conflict arising from the rights of employees as members of the registered unions on the one hand and from their obligations under the *Government Servants' Conduct Rules* on the other, Government advised the unions of its employees not to apply for registration under the Trades Union Act. The Royal Commission on Labour recommended, however, that Government, which employs considerable numbers of workers, should take the lead in making the recognition of the unions of its employees easy by encouraging them to secure registration.[1]

The organisation of trade unions by Government employees is often regarded as a sign of insubordination. But the formal recognition of such unions is of great advantage to Government

[1] *Report of the Royal Commission on Labour in India*, pp. 323-26.

itself inasmuch as it offers a chance to deal with the grievances of their employees through some permanent board of arbitration and thus to keep these questions out of the scope of party politics. In India, the most important organisation of public or semi-public employees is that on the railway, where the employees have, under the existing arrangement, chance of ventilating their grievances to the Railway Board through their representatives twice a year. It can scarcely be called collective bargaining in the proper sense of the word, but a means has been found to bring the employees' grievances to the notice of the railway authorities.

The majority of employers are, however, reluctant to recognise trade unions and offer one excuse after another against recognition, such as (1) the existence of more than one union in the same industry; (2) the organisation and leadership of the unions by outsiders and objectionable persons instead of by their own *bona fide* employees ; and (3) non-registration of the unions under the Trade Union Act of 1926. None of these arguments seems to be reasonable except the last one. The employer may rightly insist upon the registration of unions inasmuch as it signifies the "genuineness, validity and *bona fide* character" of such unions. The Royal Commission on Labour reviewed the question of industrial relations and recommended that employers should recognise the right of unions to negotiate with them in respect of matters

affecting either the common or individual interest of their members.[1]

The importance of collective bargaining in modern organised society cannot be over emphasised :—First, it is a means, on the part of workers, not only to improve their working and living conditions, but also of achieving a sense of responsibility and self-respect. Secondly, it is equally important to employers as it gives them a chance to know ahead of time the real grievances of their workers through their representatives and thus to take precaution against and even to avoid any lightning strike. Thirdly, the very fact that workers make their collective demand upon employers signifies that they accept the present system of industrial organisation —a fact which has become increasingly important in the face of the rising tide of revolt against the present system of production and distribution. Finally, collective bargaining is the only means of bringing both parties to a common council for the settlement of their differences and thus to maintaining industrial peace.

There are, however, several hindrances to the growth of collective bargaining in India :—First of all, the workers themselves lack proper education, organising power, technique of concerted action and a longer view of their group interest. Second-

1 *Report of the Royal Commission on Labour in India*, pp. 324-25.

ly, there is an absence of strong public opinion in favour of collective bargaining which is as yet only an innovation in India. Finally, there is a lack of strong measure on the part of Government to make collective bargaining an article of industrial policy. It is on these grounds that the Royal Commission on Labour recommended the recognition of collective bargaining by both Government and employers.

Industrial Conciliation.

Social justice requires protection not only of workers and employers in their group activities, but also of the public against any conflict between them which may be detrimental to the interest of society in general. It is therefore the duty of the State to provide adequate methods for the solution of industrial conflict which is likely to take place under the present system of industrial organisation in most countries.

The importance of such precautions becomes evident in India when it is considered that since the war conflict has become a common feature of industrial relations between labour and capital. Immediately after the war, the strike movement almost paralysed organised industry in many parts of the country, especially in Bombay and Bengal. The growing industrial unrest impressed upon both Government and the public of the necessity

of taking legislative measures for conciliation and arbitration, and the Government of India passed, to that effect, the Act of 1929 and the Government of Bombay the Act of 1934, as noted before. The provisions of these Acts have already been described, but the principles involved require further discussion.

It must be recalled that the Act of 1929 provides for (1) a court of enquiry and (2) a board of conciliation in the case of an apprehended or existing dispute on the application or request of both parties concerned. The chairman in both cases are to be independent persons and the board may also have representatives of both parties, but the court may not have any person other than those who are independent. The duty of the court is only to investigate and that of the board to attempt reconciliation, but in case of failure the findings and proceedings are to be published immediately so that public opinion might induce them to come to an immediate and amicable settlement.

The essential feature of the Act is that both investigation and arbitration have been made voluntary. The very fact that the case is referred to a third party for investigation, pending which the parties concerned refrain from strike or lock-out, are great steps towards reconciliation. But the most important factor relied upon is the pressure of public opinion which neither employers nor workers can afford to antagonise.

The necessity of introducing compulsory investigation and arbitration in the case of industrial dispute was discussed by the Royal Commission on Labour, which found it to be objectionable. There is no provision in the British law for compulsory arbitration. The commission showed, however, the importance of taking steps by Government in the earlier stage of any dispute and also recommended the appointment of permanent courts and conciliation officers by local Governments.

These latter recommendations are incorporated into the Bombay Act of 1934, which has provided for permanent employment of a labour officer and a reconciliator with a view to preventing individual grievances of workers from developing into a class dispute, and also to taking early steps towards reconciling differences between workers and employers in the case of any existing or impending dispute. The amending Bill introduced by the Government of India into the Legislative Assembly in September, 1937, also provides for the appointment of conciliation officers who will be charged with the duty of preventing disputes.

It is evident that while the Government of India Act of 1929 made both investigation and conciliation a voluntary affair, the Bombay Act of 1934 made investigation compulsory but arbitration voluntary. Under the latter Act the reconciliation officer and the Board may investigate

a dispute on their own initiative with or without the consent of either party, but their power ends as soon as the investigation is over and the recommendation is made. They cannot compel reconciliation or force the acceptance of their decision by either party.

Arbitration in which Government employs compulsion directly or indirectly upon one or both parties is in fact a very complicated problem as it affects the principle of collective bargaining and the right of workers to strike, which are the only means for most workers to improve their social and economic conditions. The restriction upon the power of lock-out is not the same thing as that upon the right to strike inasmuch as most employers are in a much more advantageous position than workers, in their power of resistance and in the preservation of their group interests. Any measure, whether legislative or executive, enforcing compulsory arbitration, must therefore provide some means of settling workers' grievances.

Public employees are forbidden from strike by most countries, although they are often permitted to have their own organisations. The effect of strike on the part of public employees upon society may be easily imagined, as it may paralyse the whole machinery of public service and other functions of Government at any moment. Most of the public employees have, therefore, two

methods of remedying their grievances, namely: (1) strike after having given due notice, and (2) settlement of grievances by some board which can command the confidence of both the employees and the authorities. The new Bill introduced by the Government of India into the Legislative Assembly provides that any declaration of lock-out or strike on public utilities as illegal must be accompanied by reference of the dispute to a Court of Enquiry or Board of Conciliation.

2. Social Welfare.

Social welfare is another important principle underlying labour legislation. That there exists an immense potentiality of human resources, which can be developed for the advancement of social welfare is a conception of comparatively recent origin, although some such notion was not altogether absent in thoughts and activities in earlier ages. This concept is an underlying principle of recent social legislation and has a two-fold object, namely: (1) the conservation and development of physical and mental resources of men and women and especially of children employed as wage workers; and (2) the amelioration of the moral and material conditions of workers, both inside and outside their industrial activities.

The main object of all rational activities is social progress, to the achievement of which social welfare is the most important means.

The principle of social welfare differs from that of social justice, inasmuch as the latter preconceives of some standard of equity which must be extended to working classes through labour legislation, whereas the former does not necessarily recognise such a standard but only conceives of an ideal of evolutionary society in which humanity may find its increasing perfection and which working classes may realise through progressive labour legislation. From this point of view, social justice may be said to look backward in search of a standard and to conceive of a rather static society while social welfare looks definitely forward and contemplates of a dynamic society. As an ideal, social welfare is rather vague but in its very vagueness lies its real strength. It is the ideal of "better manhood" and "better society" which has drawn many visionaries and philanthropists to the movement for labour legislation in most countries.

As indicated above, the conception of social welfare is an underlying principle of most recent measures for improving labour conditions, but those measures which definitely look forward to the betterment of society might more reasonably be classified under this principle. Since the future of society depends more directly upon the physical and mental development of the child, child labour legislation, together with protection of women, to which it is closely related, naturally falls under this category. To this must also be added all

measures for the moral and material welfare of workers who form by far the major portion of the population in all industrialised countries.

Development of Childhood.

Reference has already been made to the protection by the State of children in modern industry where conditions of work are often detrimental to their health and welfare. The protection of the child was, in fact, the historical origin of labour legislation in England, which as early as 1802, passed the Health and Morals of Apprentices Act forbidding the employment of children under 9 years of age and restricting their hours of work to 12 a day and also forbidding night work. Protection of children was similarly the first motive force for the regulation of industrial labour in India as well as in most other countries. While it still plays an important part, the underlying principle of child labour legislation has become much deeper and wider in recent years. In early times, the child was the protégé of the tribal group and with the breakdown of the tribes and the rise of the family system, first the patriarch and then the natural father became both the owner and guardian of the child. The child is, however, not only a family member, but also a future citizen and with the growth of this conception the child has come to occupy a new status and acquire new rights, of

which the State has become the guardian and the trustee. The State has even the right to interfere with any treatment of the child by the parent which is detrimental to the interest of the child as well as of society.

Since the child is the future member of society, social welfare depends upon the fullest and richest growth of childhood. The development of physical capacities and mental qualities of the child has become the prime concern of society and the most important principle of child labour legislation in modern times. The admission of children to industrial occupation has been made conditional upon a threefold requirement, namely, (1) minimum age, (2) physical fitness, and (3) elementary education ; and these requirements have gradually been raised in recent years. What is more important is the fact that the present tendency in child labour legislation is to liberate the child from all premature labour which may interfere with its full development.

The fixing of a minimum age before which a child could not be employed in factories was the first provision of factory legislation in India and this principle has gradually been extended to mining and transport industries. Moreover, this minimum age has been gradually increased by subsequent amendments and re-enactments. What is more significant is that Indian labour legislation has recently created a new class of protected labour,

that is, adolescents between the ages of 15 and 17.

Another requirement for the admission of children to employment is physical fitness, which must be certified by duly appointed medical practitioners. Any child employed in a factory may also be re-examined in respect of physical fitness and his certificate may be revoked at the discretion of the certifying surgeon. Moreover, the newly created class of adolescents between 15 and 17 may be employed as adult workers in a factory or in underground work in mines only on the certification by the duly appointed medical practitioner of their physical fitness for such work.

Opportunity for Education

Besides minimum age and physical fitness, the achievement of a certain standard of education is also an important requirement for admission of children to employment. Since all advanced countries have free and compulsory primary education and most of the children can complete this required study during the period provided by the minimum age, educational requirement scarcely raises any problem in admitting children to industry. In fact, the principle of minimum age takes into consideration both the health and education of the child and the maximum age of education often coincides with the minimum age of admission to employment. Moreover, there is a

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tendency to increase the maximum age of education which will automatically increase also the minimum age of admission to employment. A proposal has, for instance, been made to increase by one year the maximum age of education in France and Great Britain, where they are at present 13 and 14 years respectively.

The period of education as determined by the minimum age is not sufiicient for the completion of education and training, the importance of which is being realised more and more, not only for higher moral and intellectual development, but also for the acquisition of higher industrial efficiency. It was this principle which led to the enactment of the Half-Time Act of 1844 in Great Britain, restricting the hours of work of children under 13 to half a day or an alternate day, allotting the remaining time to school attendance. This half time is being utilised, not only for general education, but also for vocational training.

In recent years, provision has been made for supplementing the compulsory elementary education by the continuation or extension school, where children can follow both the general and technical education while employed in any industry or profession, and employers have to make the necessary arrangements in the hours of work of children. Moreover, vocational education and vocational guidance have also been introduced in many countries. This increasing need of juvenile

education, both general and technical, is being met by different methods in different countries.

The minimum age for the employment of children was introduced into India over half a century ago, and, following the British example, half time work has also been introduced into factories. But there has not yet developed compulsory system of education except in a few localities, nor has the half-time been utilised for educational benefit of Indian children, as will be discussed more fully in a subsequent section.

Conservation of Womanhood

Closely connected with the development of childhood is the question of the conservation of womanhood, upon which depends not only the welfare of women themselves, but also of society in general and of children in particular. Reference has already been made to legislative measures relating to women who as "minors" have been brought under the protection of the State from the very beginning of labour legislation. But the increasing realisation of the importance of women in different aspects of social life has led to the enactment of other measures in almost all advanced countries.

A woman may be conceived of in a threefold capacity, namely (1) worker, (2) wife and (3)

mother. For a long time woman has been considered a "minor" in a legal sense of the word and to be also one of the "weaker sex." The State had therefore no difficulty in extending its protective power to women in the new industrial organisation and to pass legislative measures on their behalf. These early legislative measures have been supplemented by a series of other measures and all the legislative measures in respect of women may roughly be classified under three different headings :—

First, as a worker, woman has always been in charge of the household and has often assisted man in agriculture and handicraft, both of which she has in fact been the originator. As much of her work has been transferred from the household to the factory, she has simply followed it and become an industrial worker. As in the case of children, the State has enacted legislative measures for her protection against excessive hours, insanitary conditions, dangerous work and underground employment in mines.

Secondly, woman is also wife and the builder of the home and the pivot of the family life, on which has been built up the present social structure. Her presence is therefore needed at night when all members of the household, including both adults and children, are at home. Moreover, night work outside the household and in the company of strangers may not always be morally bene-

ficial. The State has therefore prohibited the night work of women except under some special conditions. Indian law prohibits the night work of women under any circumstances and some of the provincial Governments also prohibit the employment of a woman in a place where there is no other woman employed.

Finally, woman is also mother and as such she is the bearer and rearer of the future generation. In fact, the physical and moral development of the child is in no mean degree dependent upon the health and welfare of the mother. The realisation of this fact has led to another series of legislative measures such as maternity benefit and provision for creches. These provide both pre-natal and post-natal care of the child in all industrial undertakings where women are employed in large numbers.

Reference has already been made to the different provisions of Indian labour legislation for the protection of women in factories and mines and the prohibition of night work and employment underground in mines and in dangerous work in factories. Moreover, some provincial Governments have also passed measures providing for maternity benefit and creches for children.

Improvement of Environment

Another important method of achieving social welfare is the improvement of environment, which can be best achieved by what is technically called

welfare work. Welfare work seeks to create better physical and social environments and to offer greater facilities for the moral and material advancement of the masses. The necessity of welfare work in modern society arises from a two-fold reason : First, the inadequacy of the present wage system to meet the growing needs of workers, most of whom live from hand to mouth and have scarcely any means to satisfy their higher needs; and also the incompetency of the State to regulate the wage system except in the case of minimum age for women and children, under the present system of production and distribution, in which the private property is "sacred" and profit-making is the motive force in a business undertaking. Secondly, the gradual development of the function of the State in undertaking action for the common good or general welfare of society, for which the State is economically and politically in a more advantageous position than workers themselves. It is to supplement the wage system that the state generally undertakes welfare work.

Welfare work has opened up a virgin field of legislative measures for the central, provincial and municipal Governments. Moreover, in these benevolent activities Government is often aided by employers, philanthropists and workers.[1] The

[1] Among the most important centres of welfare work undertaken by employers are those of the Tata Iron and Steel Company at Jamshedpur, the Buckingham and Carnatic Mills at Madras, the

main work depends, however, on Government initiative, especially in backward countries where civic life has not yet properly developed and where workers are still unorganised. The scope of welfare work is varied depending upon the stage of social and industrial development of a country, but may be roughly divided into four categories, namely, (1) housing, (2) health, (3) recreation, and (4) culture.

The first and foremost item in welfare work is housing accommodation which is the physical basis of home and society. The provision of housing accommodation by employers, except in special cases, is neither practicable, as they are engaged in business and not in philanthropy, nor desirable as it demoralises workers by making them too much dependent upon employers. Commercial housing for profit leads to rack-renting, insanitation and overcrowding, nor is it possible for most industrial workers to own their own houses in industrial centres without having assurance of permanent employment and having larger share in industrial remuneration. The burden of promoting industrial housing has, therefore, fallen upon Government,

British India Corporation at Cawnpore and the Empress Mills at Nagpur. The most important welfare work by private agencies is that of the Servants of India Society in Bombay and by trade unions is that of the Textile Labour Association in Ahmedabad.

which is the only competent authority to undertake such an expensive scheme on a large scale, as will be discussed more fully later on.

A second important feature of securing social welfare is the improvement of public health, especially in a tropical country like India, where the outbreaks of cholera, malaria, smallpox and other diseases are almost annual occurrences, causing the untimely death of a large number of the population and, what is still worse, devitalising many more. In the very nature of the thing, public health comes within the jurisdiction of Government, whether central, provincial or municipal. Public health has scarcely received serious attention in India and the Royal Commission on Labour made several recommendations for action by provincial Governments.

Another important line of welfare work is the provision for recreation, the necessity of which has been gradually realised, and various provisions have been made by different Governments not only for workers but also for the masses in general. The increasing intensity of work and the consequent fatigue, needs correspondingly increasing leisure, for which there is a demand in most industrialised countries. The main object of recreation is to recreate body and mind from fatigue and depression for new work. Recreation is also a great antidote to such vices as drinking, drug-habit and gambling, to which large numbers of men and women are

often addicted. Moreover, recreation supplies a great source of amusement to most people, especially workers, who have neither the adequate means nor necessary education for any higher kind of pleasure.

Closely connected with recreation is culture in its narrower sense, or that attitude towards life that raises a person from the physical plane to the intellectual level, creating a taste for things which are artistic, moral or spiritual. It may be achieved through the refinement of ideas, desires and aims ; and study, drama, music and painting may be helpful. Illiteracy, which is colossal among all classes of Indian workers, is a great hindrance to cultural development. But adult education has been successfully introduced in many countries and may be attempted even in India. Moreover, moving pictures, broadcasting and public lectures can also be utilised.

3. National Economy[1]

While social justice is the avowed object and social welfare the underlying force, national or social economy is also a guiding principle of labour legislation. In the broader sense of the word,

1 National economy is used here in the sense of social economy, inasmuch as the emphasis is laid upon distribution rather than upon production of wealth.

social welfare includes national economy but, while the former implies welfare in general including moral and intellectual values, the latter emphasises the importance of material well-being and economic security. Moreover, since the control of working and living conditions often affects industrial growth, national economy deserves careful consideration in all measures of labour legislation.

The first and foremost object of national economy is the increase of national wealth. As far as labour legislation is concerned, national economy has a three-fold concern, namely, first, the ensuring of the normal growth of industry for the benefit of the nation as a whole, especially in India where national productivity is far behind and the *per capita* income is the lowest among the advanced nations;[1] secondly, the provision for better working and living conditions, including the supply of physical and intellectual needs for the growth of industrial efficiency, which is lower than that of any other industrially advanced country; and finally, the adjustment of the wage system with a view to increasing the purchasing power of workers and creating a stable home market on which depends continued production. The importance of the higher purchasing power of the masses and of an increasing home market has been

See Author's *Production in India*, Chapter IV. *The Industrial Efficiency of India*, Chapter II.

brought before the public by the world-wide industrial depression and unemployment since 1929 and the rising spirit of economic nationalism and self-sufficiency in several nations since the war.

From the above it is evident that production and distribution are not only concomitant but are also interdependent. Any system of distribution which helps production must be regarded as a part of the productive process. The ultimate object of all production is consumption, to which distribution serves as an intermediary, and social economy in fact, aims at equitable distribution. All persons who take part in production of national wealth must have an adequate share in national dividend. This share must be sufficient not only for the supply of physical and intellectual needs for the achievement of industrial efficiency, but also for the satisfaction of higher needs for moral and spiritual development, which depends to a large extent upon material welfare and economic security. As far as national economy is concerned, labour legislation has therefore, several objects, namely, (1) development of industry; (2) improvement of working conditions; (3) protection of wages; and (4) social insurance.

Development of Industry

As noted above, the prime object of national economy is to increase the productive power and

wealth of a nation, on which depends the possibility for its workers of getting a larger share in national dividend. While providing for better working and living conditions for workers, labour legislation should not prove itself to be an obstacle to the growth of national industry, which is constantly menaced by international rivalry, specially of the more advanced industrial nations.

No country is in a greater need of increasing its national wealth than India. The country where *per capita* income has been estimated to be about Rs. 100 [1] a year, as compared with Rs. 1,148 [2] in the United Kingdom, cannot be expected to offer a much larger share of income to its wage workers. As a result, "the vast majority of the rural population of India lives perpetually on the very margin of subsistence," as has been pointed

[1] According to the recent official and semi-official estimates, the average annual per capita income would amount to Rs. 100 for the rural population in the Madras Presidency, Rs. 85 for the rural areas and Rs. 100 for urban areas in the Bombay Presidency. *Cf. India in 1930-31*, p. 156.

[2] The total national income in the United Kingdom was £ 3,938 million (*Cf. League of Nations World Economic Survey*, 1933-34, p. 158) and the population 45.98 million in 1930 (estimate in the *Annuaire statistique de la Societe des Nations*, 1931-32, p. 22), giving a *per capita* income of £ 84·6. The pound has been converted into rupees at the rate of 1*s*. 6*d*.

out by the Director of Public Information [1] and the economic conditions of the people are as bad in the town as in the country.

Among the various causes of poverty among the people, the most important are the increasing pressure upon the land, absence of scientific methods in agriculture, decline of indigenous arts and crafts, and the scarcity of modern industry. To this might also be added the *laisser faire* policy which the Government of India had adopted from the very beginning. During the war, the importance of developing an all round industrial system was fully realised and the Government of India adopted, on the recommendation of the Indian Industrial Commission of 1916-18, a policy of discriminate protection of large-scale industries and of encouragement to the growth of small-scale industries, thus laying down the foundation of a new policy of national economy.

In spite of lack of active interest in national economy in earlier years, the Government of India had tried to safeguard the interests of national industry in labour legislation and, although the question of workers' welfare has received increasing attention in recent years, the original policy of Government toward industry has remained intact. In fact, it has been the well-known policy of

[1] India in 1930-31, p. 159.

Government that the legislative regulation of labour conditions should be achieved by a gradual process so that there might not be any interference with the normal development of industry. Improvement has also been achieved in working conditions as will be described in the next section, though not with the direct object of increasing efficiency, but the adjustment of the wage system with a view to increasing the purchasing power of the masses must await the rise of a much broader policy of national economy.

Control of Working Conditions

As noted above, a fundamental principle of equitable distribution is the improvement of working conditions with special reference to sanitation, safety and hours, which has, in fact, been one of the main objects of labour legislation from the very beginning. In recent years the question has, however, acquired a new significance for a threefold reason: first, the necessity of providing better conditions of work for increasing the efficiency of working classes; secondly, increasing complexity and intensity in the productive process, requiring greater safety and shorter hours; and, finally, improvement in business organisation, industrial technique, safety devices and sanitary measures, in which workers demand a share in the form of better conditions of work.

One of the main objects of labour legislation is the conservation of national health, which is not only a basis for better manhood and womanhood but also, in the long run, the primary condition of national wealth. As national wealth depends to a large extent upon efficient labour power, any injury to workers' health is detrimental to the growth of national wealth The health of workers in most organised undertakings is liable to deteriorate from several causes. Complicated machinery and high speed cause great nervous strain and excessive heat or moisture, dust, fluff and gas and lack of proper lighting and ventilation may often prove injurious to health. Moreover, some occupations, such as those connected with the use of wool, sulphur, lead and mercury, are liable to cause serious diseases unless proper precautionary measures are adopted against them.

Closely connected with health is the question of safety which, although affecting a comparatively small number of workers is nevertheless of great national importance Every year an increasingly large number of workers is being subjected to industrial accidents in factories and mines, on railways and on board ship. Quite a few of these accidents are fatal and a still larger number result in permanent or temporary disablement. The number of minor accidents amounts to several thousands every year.[1]

[1] The total number of cases for which compensation was paid was

Another condition of national health is shorter hours in modern industry, which has become more and more intense through the gradual process of rationalisation. The fundamental principle in determining the hours of work is that one should not spend more energy in a day than that which can be recuperated by ordinary food and rest. The gradual realisation of the importance of leisure for achieving moral and intellectual development by workers has also led to the demand for shorter hours. Moreover, recent worldwide depression and increasing unemployment in industrialised countries has also given rise to the movement for shorter hours and a 40-hour week has already become a draft Convention of the International Labour Conference since 1935, and has even been incorporated into national labour legislation by countries like France. While the question of introducing a 40-hour week into Indian industry is still a debatable point, a 48-hour week has already been successfully worked by many industrial undertakings and has come within the possibility of realisation by national labour legislation.

It is largely the realisation of the importance of national health and of the social and economic loss through disease, accidents and excessive hours

as high as 23,574 in 1930 and 16,890 in 1934. *Cf. Labour Gazette*, September, 1936, p. 64.

that has led to the improvement of sanitary and safety conditions and also to the reduction of hours of work in all advanced countries. Moreover, the desire to distribute the benefit of scientific discoveries and technical inventions to the working classes has also been a motive force. Reference has already been made to the provisions of different legislative measures for health, safety and hours from the very beginning and their subsequent improvement by successive amendments and re-enactments in most of the organised industries in India.

Regulation of Wage Payment

A more direct method of distributing national dividend through labour legislation is the regulation of wage payment. The fixing of the rate of wages in any private industry is, however, beyond the competence of the State. The cornerstone of modern industrial organisation is private property. An individual or a group of individuals working in a corporate body has the right to acquire and accumulate wealth by all legitimate means and disburse it at his pleasure and the State has no right to interfere with the rights of a private person and to fix the rate of wages of his workers.

This right is not, however, absolute, especially in a modern society. While some of the advantages of modern industrial enterprise, such as

division of labour, concentration of group efforts, wholesale buying and selling and business management, may be assigned to individual efforts, they are ultimately derived mostly from society in general in the form of discoveries and inventions, copyrights, trademarks and protection and subsidy, all of which contribute a large share to the profits of modern industrial undertakings. In short, the so-called private property is dependent to a large extent upon the privileges granted by society, which has therefore a part claim on its profits. It is on this ground that the State has succeeded in scoring at least two important points in the wage system of private organisation, namely, (1) the protection of wages by regulating the time, mode and place of payment and controlling the fines and deductions from the wages earned ; and (2) the fixing of the minimum wage machinery which has been established in many countries, with special reference to the wages of women and children.

Payment of wages has already been brought under control by the Government of India, which not only regulates the time, mode and place of payment, but also limits the amounts of fines and deductions from the wages which have been earned. Recent measures regulating the attachment of wages and imprisonment for debt, have also brought a large measure of relief to workers' wages. Moreover, these protective measures of the Central

Government have been supplemented by those of the provincial Governments of Bengal, the Punjab and the Central Provinces making besetting or intimidation or molestation for the collection of debt a public offence and providing for the liquidation of debt. The question of establishing minimum wage machinery has not yet received much attention, but the wage system on Assam tea gardens, which has existed for about two generations, offers an opportunity for adopting similar methods in other industries, especially with reference to women and children.

Social Insurance

Another element in national economy in social insurance or the device of a mechanism for the distribution among many of the losses suffered by a few, as it is generally defined. An important problem of modern society is the economic insecurity among an increasingly large number of population, especially among the wage workers who depend solely upon labour as a means of livelihood and are easily exposed to privation, destitution and misery through the loss of income arising from accident, sickness, in-

[1] *Cf.* Author's "Social Insurance in India," *Modern Revisw*, December, 1936.

validity, old age, premature death and involuntary unemployment. While the problem of this insecurity has been brought about by several forces, such as modern industrialism with its power machinery and complicated processes as well as the capitalist system of production which is based on profit motive and on distant and international market, the development of social insurance as a means of solving the problem is due mainly to the increasing sense of social justice and the growing importance of the masses in the social, political and economic organisation of modern society.

The origins of social insurance may be traced to the guild system, employers' welfare work, trade unionism and friends' societies. Most of the earlier schemes were voluntary, but the inadequacy of voluntary schemes and their absence among those who need them most, has led to the development of the compulsory system in most of the advanced countries. Moreover, the question of contributions to the social insurance funds has also received increasing attention. The contribution may be derived from the employer alone, or from the employer and the employee, or even from the employer, the employee and the State. In the first case, the main object is to make the benefit of insurance a part of cost production, which is ultimately distributed among the consumers. Since most of the wage workers have no means of making contributions, partly due to the

limited income and partly due to the lack of foresight, this system is the best to secure the largest number or all the working population. The advantages of the other two schemes lie in the fact that they give workers a claim upon the benefit to which they themselves are contributors.

Social insurance in India is of very recent origin and cover only a fraction of the working population. But a satisfactory beginning has been made in maternity benefit schemes for factory workers in several provinces and also in workmen's compensation schemes in organised and semi-organised industries all over British India. The accident insurance scheme covers over 6 million workers and shows the possibility of its further development and also of the introduction of other social insurance schemes on a wider national basis. The progress of social insurance depends largely upon the growing public opinion, workers' increasing demand and Government initiative. With the growth of industrialism and the rise of national government, social insurance schemes will no doubt receive greater attention and be gradually extended to include all classes of the working population.

4. International Solidarity

The last, but not the least, important principle of labour legislation is international solidarity, or

the improvement of national labour conditions through international labour agreements or Conventions. This solidarity is achieved by the ratification or adoption of draft Conventions and Recommendations of the International Labour Conference and the application of their principles to national labour legislation. These Conventions and Recommendations have a two-fold object, namely,—(1) the elimination, as far as possible, of undue advantages which one nation may have over another due to the backwardness of working conditions such as the lack of provisions for the most up-to-date and costly sanitary and safety measures and longer hours ; and (2) the increase of the amenities of life to working classes with some common measure of agreement among different nations.

There was never a time in the history of the world when one community did not directly or indirectly depend upon another. Social progress has been achieved partly through struggles and strifes, and partly through interdependence and co-operation among different communal groups. The rise of modern nations with well-organised social, political, and industrial systems as well as increasing facilities for communication, and growing, though temporarily checked, international trade and migration, have made all the nations of the world mutually dependent.

This interdependence is as much noticeable in

national labour legislation as in any other phase of modern social life. The rising complexity in power machinery and productive process was the fundamental cause of national labour legislation in most industrially advanced countries. But with the growth of industrial and commercial rivalry among various nations, the burden of which was partly borne by workers, the importance of international agreement was progressively realised by economists, philanthropists and labour leaders, although it was not until the Great War that real opportunities came for organising co-operation among different states for developing international labour legislation.

International Labour Organisation

Attempts were made by the Swiss Government as early as 1881 to come to an understanding with different Governments on the question of international labour legislation and the first international labour conference was also called by the German Government at Berlin in 1890; but although several resolutions were passed by the conference no means were found to make them binding upon any nation. The Congress of Labour Legislation, held at Brussels in 1897, met, however, with better success. It led to the creation of the International Association for Labour Legislation in Paris in 1900 and the International Labour Office at Basel in

1901. The object of the International Association was to bring about uniform labour legislation by means of treaties entered into by different states. Research work was organised for this purpose in fifteen countries including most of the Western European nations and the United States of America. It was this organisation which was responsible for the conclusion of the first bilateral labour treaty between France and Italy in 1906 and the first multilateral conventions in 1908, with two international conventions, namely, (1) the prohibition of the employment of white phosphorus in the match industry, and (2) the prohibition of night work of women.[1]

It was not, however, until after the war of 1914-18 that all the nations fully realised the need of international co-operation for labour legislation. While the Treaty of Versailles of 1919 created the League of Nations for co-operation among different nations for the preservation of peace, Part XIII of the Treaty created the International Labour Organisation for improving labour conditions throughout the world and for establishing a better relationship between employers and employees as well as among different nations through common understanding, in which the representatives not only of Governments but also of employers and employees

[1] *Cf. The Annals of the American Academy of Political and Social Science*, March, 1935, pp. 10-17.

could take an active part. The object of the International Labour Organisation is laid down in the Preamble to Part XIII of the Treaty of Versailles which says :—

"Whereas the League of Nations has for its objects the establishment of universal peace, and such a peace can be established only if it is based upon social justice ; and whereas conditions of labour exist involving such injustice, hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperilled,......whereas also the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries, the high contracting parties, moved by sentiments of justice and humanity as well as by the desire to secure the permanent peace of the world, agree to establish a permanent organisation to be called the International Labour Organisation as a part of the League of Nations." The Organisation was established in 1919 and came into operation in the same year.

The International Labour Organisation consists of three parts, namely : (1) The International Labour Conference, to which each member state is entitled to send four delegates, two being for Government and one each for employers and employees ; each delegate is entitled to be accompanied by one or more advisers to assist him in

his deliberations. (2) A Governing Body, being an executive committee of 32 members, of which 16 represent Governments and eight each employers and employees; each of the Governments represented on the Governing Body may appoint for its regular delegate a deputy member of a different nationality, and the employers' and workers' groups may each appoint eight deputy members. The deputy members have the right to be present at the sittings of the Governing Body but have no right to vote unless the regular delegates or their substitutes are absent. Moreover, each Government represented on the Governing Body may further appoint for its regular delegate a substitute of the same nationality who may replace the regular delegate in case of his absence ; substitute members may also be appointed by the employers' and workers' groups. (3) The International Labour Office, which is the permanent secretariat of the Organisation and is in charge of a Director appointed by the Governing Body. The staff of the International Labour Office is appointed by the Director.

The function of the International Labour Office is manifold :—(1) the preparation of the agenda for the meetings of the Conference ; (2) the collection and distribution of information on all subjects relating to the international adjustment of conditions of industrial life and labour; (3) the examination of subjects which are proposed to be brought before

the Conference with a view to the conclusion of international Conventions; (4) the conduct of such special investigations as may be ordered by the Conference; (5) the carrying out of the duties required of it by the provisions of Part XIII of the Treaty in connection with international disputes; and (6) the discharge of such other duties as may be assigned to it by the Conference.

All the member states of the League of Nations are automatically members of the International Labour Organisation, but a nation can also become a member of the Organisation without being a member of the League. Such is at present the case with Japan and the United States of America. Almost all the industrially advanced nations of the world, with the exception of Germany which withdrew recently, are members of the International Labour Organisation.[1]

Conventions and Recommendations

The conference meets at least once a year and its decisions may form either a draft Convention or a Recommendation. A draft Convention is a signed treaty which, when ratified by a state, imposes a definite legal obligation on that state. A

1 The number of the countries which are at present members of the International Labour Organisation amounts to 62.

Recommendation, though not a binding obligation, carries a moral obligation, which all member states should take into consideration. In case a state has a federal government and the power of ratification lies outside its domain, a draft Convention may be regarded only as a Recommendation. In fact, it is partly to avert this difficulty that provision was made for the formulation of some of the decisions of the Conference in the form of Recommendations.[1]

A draft Convention or a Recommendation may be general, *i.e.*, applicable to all member states, or special, *i.e.*, applicable only to those states which are interested in the question, *e.g.*, maritime conventions. Moreover, the provisions of both may also be modified or relaxed in the case of a member state which, due to geographical and economic reasons, cannot ratify or apply it. The possibility of such modification or relaxation of the draft Convention was laid down by the Constitution itself. Article 19 (405), for instance, says that " in framing any Recommendation or draft Convention of general application the Conference shall have due regard to those countries in which climatic conditions, the imperfect development of indus-

[1] The request for a Recommendation was in fact made by the United States representatives who were present at the first International Labour Conference held in Washington, D.C., in 1919.

trial organisation, or other special circumstances make the industrial conditions substantially different and shall suggest the modifications, if any, which it considers may be required to meet the case of such countries."[1]

The aims and objects of these Conventions and Recommendations may be easily grasped from the Preamble to Part XIII of the Treaty of Versailles, which mentions the following, namely, (1) the regulation of hours of work, including the establishment of a maximum working day and week; (2) the regulation of labour supply; (3) the prevention of unemployment; (4) the provision of an adequate living wage; (5) the protection of the worker against sickness, disease and injury arising out of his employment; (6) the protection of children, young persons and women; (7) provision for old-age and injury; (8) protection of interests of workers when employed in

[1] Article 41 (427) of the Constitution brings out this modification more clearly:—"The High Contracting Parties recognise that differences of climate, habits and customs, of economic opportunity and industrial tradition, make strict uniformity in the conditions of labour difficult of immediate attainment. But, holding as they do that labour should not be regarded merely as an article of commerce, they think there are methods and principles for regulating labour conditions which all industrial communities should endeavour to apply, so far as their special circumstances will permit)."

countries other than their own ; (9) recognition of the principles of freedom of association ; and (10) organisation of vocational and technical education.[1]

From 1919 to 1937 the International Labour Conference adopted 62 draft Conventions and 56 Recommendations covering most of the subjects mentioned above and including workers in different occupations, *e.g.*, industry, agriculture, transport, and professions, and giving specific protection to children, young persons and women. Moreover, forced labour which still exists in different countries has been brought under a draft Convention.

Ratification and Application

Under Article 19 (405), each member state must submit, within 18 months of its adoption by the two-thirds majority of the Conference, the draft Convention to its legislative or its executive authority for ratification, even though it may be finally rejected. Whether it is ratified or not, the fact must be registered with the Secretariat of the League of Nations, and the ratified Convention must be given effect to by the enactment or amendment of national legislation or otherwise,

[1] I.L.O. *The Constitution and Standing Orders of the International Labour Organisation*, Geneva, 1936, p, 4.

unless the state has already a similar or better labour code on the same subject; but no state member is required to lessen the protection afforded by its existing legislation to the workers concerned. In the case of Recommendation, the member state will simply inform the Secretariat of the action taken.

Under Article 22 (408), each member state must send to the Governing Body an annual report in specified form on the measures taken by that state to give effect to the provisions of the Convention. In the event of any representation being made by an organisation of employers or workers on the failure to secure any effective observance of any Convention by a member state, the Governing Body may communicate this representation to the state complained of and may have recourse to the sanction of publicity in case a satisfactory reply is not forthcoming. In case of non-observance of any Convention by a member state, another member state may have the right to file a complaint to the Governing Body which may communicate the complaint to the member state concerned and may even apply for the appointment of a commission of enquiry to consider the complaint or report thereupon. The member state complained of is, however, entitled to take part, either through its permanent or its temporary representative, in the deliberation of the complaint by the Governing Body.

Since 1919, when the International Labour Conference was first founded, the total number of ratifications amount to over seven hundred. A large number of Recommendations has also been adopted, by various countries. Moreover, even though not ratified or adopted, both draft Conventions and Recommendations adopted by the International Labour Conference have indirect influence upon labour legislation in most countries.[1]

Effect upon Indian Legislation

As a signatory to the Treaty of Versailles of 1919, establishing the League of Nations, India has become automatically a member of both the League and the International Labour Organisation. Since 1922, India also occupies a permanent seat in the Governing Body as one of the eight important industrial countries.[2] Moreover, Indian

[1] Up to January, 1937, the total number of unconditional ratifications amounted to 714 and the conditional ratifications to 11. Moreover, 36 Conventions were approved by the competent national authorities and 112 were recommended to the competent national authorities for approval *Cf The Progress of Ratification* Supplement to *Industrial and Labour Information*, January, 1937.

[2] The first representative of the Government of India at the Governing Body was Sir Louis Kecshaw of the India Office, who was succeeded by Sir Atul Chatterjee, Sir B. N. Mitra, and Sir Firoz Khan Noon, successive High Commissioners for India in Great Britain. Sir Firoz took his office in 1936 and is the present representative.

employers[1] and workers[2] also occupy seats either as members or deputy members of the Governing Body. Since the beginning, India has sent a full delegation, *i.e.*, four delegates, two representing Government and one each representing employers and workers, who have generally been accompanied by one or more advisers.

It must be remembered that India had had a fair system of labour legislation before the creation of the International Labour Organisation, and had also passed important labour measures in respect of such industries as plantations, factories and mines. Since 1919, India has ratified 14 draft Conventions and adhered to the Basel Convention on white phosphorus, which formed one of the Recommendations of the first International Labour

[1] Mr. David Erulkar, Bar-at-Law, President of the Indian Chamber of Commerce in Great Britain, became a deputy member on the Governing Body in 1931 and a full member in 1934. India, Japan and the Union of South Africa have been given two full memberships and one deputy membership each year, and by a system of rotation each of these countries retains a full membership for two years and a deputy membership for one year.

[2] Mr. N M. Joshi, M.L.A., was Indian labour delegate at the first International Labour Conference which met in Washington, D.C., in 1919. Since then he has represented Indian labour at the Conference from time to time. He became a deputy member in 1928, and a full member in 1934.

Conference in 1919, and has also adopted several other Recommendations. What is more important is the fact that India has applied these ratified Conventions and adopted Recommendations as well as the principles of several others not yet ratified or adopted, into national labour code by legislative measures or otherwise. Moreover, India intends to ratify other Conventions and adopt other Recommendations as soon as her social and economic conditions permit her to do so, but her chief complaint is that most of the draft Conventions are adopted by the International Labour Conference without due consideration of the state of her industrial development and thus often placing them beyond the possibility of immediate ratification.

The active participation by India in the rise and growth of the International Labour Organisation has not only helped in the development of international solidarity, but has also profoundly influenced her own national labour legislation. Although labour legislation was undertaken by the Government of India about two generations ago, yet the progress achieved was rather slow. It was only after the inauguration of the International Labour Organisation in 1919, and the adoption by the International Labour Conference of various draft Conventions and Recommendations since then that labour legislation in India has received a new impetus. Even the appointment of the Royal Commission on Labour

in India was partly influenced by the fact that the Government of India was not in a position to give effect to the principles of international Conventions and Recommendations without knowing the actual conditions in organised industry

The indirect effect of the International Labour Organisation is also great. The discussions and debates in the International Labour Conference and the Conventions and Recommendations adopted thereby have also set new ideals for further labour legislation. Moreover, the close contact of Indian delegates, especially those representing labour, with their colleagues in other countries at the annual International Labour Conference, is a great source of inspiration for international solidarity and social justice which are bound to influence Indian legislation in the long run.

In short, subject to her social and economic conditions, India has taken definite steps in bringing her labour conditions to the standards of the international labour code.

CHAPTER IV

PRINCIPAL PROBLEMS

In the foregoing chapters, the growth and procedure of Indian labour legislation have been described and its underlying principles enunciated. In spite of considerable progress, labour legislation lags behind the national requirements and presents some problems which may be classified under three main headings, namely, (1) the development of labour policy; (2) the development of industrial labour; and (3) the organisation of the State function.

1. DEVELOPMENT OF LABOUR POLICY

A national labour policy is a programme of action on the part of a nation to ameliorate the moral and material welfare of its wage-workers and thereby to ensure and enhance the progress and prosperity of its whole population. Labour legislation is an ever-growing institution and must continuously adapt itself to the changing conditions, attitudes and ideals of a given society. The programme of action must be purposive and deliberate and at the same time flexible and adaptative. It must be based upon some fundamental

principles and must have its immediate and practical objectives.

These objectives of a labour policy are various, and may be enunciated in the following terms :—(1) the establishment of minimum basic codes for the working and living conditions of workers with special reference to such subjects as age of employment, health, safety, hours, wages and housing; (2) the creation of facilities for the development of trade unions so that workers may exercise their concerted action for the achievement of their group interests ; (3) the recognition of collective bargaining as a means of establishing equitable relationship between employers and workers with reference to the conditions and management of labour ; (4) the provisions of adequate machinery for the peaceful solution of disputes between employers and workers ; and (5) the inauguration of welfare work by municipal, local and central Governments for the improvement of the moral and material conditions of the working classes.

It is evident that the development of such a labour policy or programme of action depends upon several factors, namely, employers, workers, the public and Government. Its origin lies in the conflicting interests of labour and capital, but its development depends mostly upon social attitude or public opinion in all democratic countries, and may be facilitated by Government which plays an important rôle, especially in the early stage of its

development. Moreover, Government is promoter of all protective measures, the administrator of all labour laws and the supreme authority to legalise the status of workers on the basis of equality with that of employers.

The defect of labour legislation in India is due to the lack of proper development of a national labour policy. Until very lately, there was practically no social attitude or public opinion on the labour question, and no demand was made for an adequate solution of any outstanding labour problem. Most of the measures were, therefore, forced upon Government by extraneous circumstances, without any clear conception of the status of industrial workers in modern society. Plantation legislation was, for instance, enacted for granting planters a security over their labourers; factory legislation owes its origin to the rivalry of Manchester interests; and even to-day labour legislation is largely undertaken for the fulfilment of international obligation, which, however important in itself, cannot take the place of a national labour policy. Although Government has taken a progressive attitude towards labour legislation from the very beginning and has ameliorated the conditions of labour in most organised industries, the gain achieved has been insufficient inasmuch as there has not yet developed a permanent class of industrial workers with their own definite rights and privileges on the one hand and with well

developed sense of duty and obligation on the other.

An important series of problems in connection with labour is therefore the development of a national labour policy, which depends upon several factors, such as (1) intelligent public opinion, (2) workers' class solidarity, (3) employers' enlightened interest, and (4) representative government.

Intelligent Public Opinion

The most important factor in the development of national labour policy is public opinion, which expresses the attitude of an articulate section of a given society on a particular question. Public opinion is a dynamic force in modern society and forms the background of progressive social legislation in all democratic countries.

An outstanding feature of modern society is its rising self-consciousness. Constant progress in science, philosophy and art as well as in discovery and invention and the consequent changes in productive technique and industrial organisation, have created new social attitudes and new social values and given rise to a new social consciousness. It is being progressively realised that a given society or community, as determined by certain geographical areas, social institutions and cultural ideals, including *mores*, customs, laws, ideals and attitudes, is an organic whole inasmuch

as its progress, prosperity and even independent existence depends on the full development, co-ordination and solidarity of its component parts or social classes. While the labouring classes have played an important, although often unrecognised and uncompensated, part in social evolution, they have become more important in modern society as contributors, not only to national wealth, but also to political solidarity and social progress. It is the realisation of this fact which is mainly responsible for increasing interest on the part of the public in labour question.

The social consciousness as to the significance of the labour question has, however, been a process of slow growth and depends upon several factors, namely, (1) elementary education among the general public, which is a preliminary condition; (2) objective, authentic and relevant facts as ascertained by authoritative enquiries and investigations; (3) the interpretation of these facts by competent students of economics and sociology into the development of a constructive social philosophy; and (4) the popularisation of these facts and ideals by the press and the platform among the masses.

The greatest defect in the development of intelligent public opinion on the labour question in India is the lack of elementary education among the masses which are directly concerned in the labour question. The country, where nine-tenths

of the people are illiterate and almost all the workers are unable to read and write, cannot be expected to develop intelligent public opinion for its own welfare. Recently the labour movement has attempted somewhat to mitigate this defect; but due to the colossal illiteracy and ignorance of the masses, it has made very little headway.

As far as enquiries and investigations are concerned, a good deal of work has been done by Government, which is the only authoritative body with sufficient means to undertake such work on an extensive scale. Reference has already been made to the reports of various commissions and committees on industry and labour as well as to the periodical reports published both by the central and local Governments. To this might be added the publications by the Department of Industries and Labour of the Government of India as occasional bulletins.[1] Special mention should, however, be made of the publications of the Bombay Labour Office, which appear in a very readable form for information on labour questions to all serious students.[2] Private enquiries and

[1] Most of these bulletins have been prepared under the direction of Mr. A. G. Clow, I.C.S. They relate to various topics, such as administration of factory law, international labour conference, hours of work in mines, etc.

[2] Most of the researches carried out by the Bombay Labour Office relate to wages, hours and family budgets. The Office was first started under the direction of Mr. G. Findlay Shirras, who has been succeeded by Mr. J. F. Gennings, Bar-at-Law.

investigations on the labour question, although valuable, have not made much headway.[1]

What proved to be the greatest hindrance to the growth of intelligent public opinion on the labour question in India was, however, the lack of interest in the subject on the part of serious students of economics and sociology to interpret and consolidate these isolated and occasional surveys and periodical reports into a consistent whole and a connected social philosophy with a view to contributing towards the growth of permanent social and industrial institutions. It was only in 1916, that is, over half a century after the enactment of the first labour Act, that a serious and systematic study was undertaken of the official documents on labour legislation.[2] What was more important was an analytical study of labour conditions with special reference to recruitment, efficiency, health, safety, hours, wages, insurance and welfare in important organised industries, especially in factories[3]

[1] There are only a few enquiries of this kind, such as Mr. A. R. Burnett-Hurst's *Labour and Housing in Bombay*, 1925.

[2] *Cf.* Author's *Factory Legislation in India*, presented as a doctoral dissertation to the University of Wisconsin in 1916. It was followed by the special Calcutta University Lectures of Professor J. C. Kydd on the same subject about two years later.

[3] *Cf.* Author's *Factory Labour in India.* "It is about the first book of an independent student of economics on factory labour in India."—*Mysore Economic Journal.* Four of its chapters were published as "The Rise of Factory Labour in India" by the United States Bureau of Labour Statistics in its organ *Monthly Labour Review* in May, 1922.

and on plantations,[1] which together employed by far the largest number of workers and the first treatise on the subject appeared in 1923. In the same year was also made the first study of trade unions and labour movements, showing their significance to the moral and material welfare of workers themselves as well as of the progress and prosperity of the whole society.[2]

The first historical and comprehensive study of labour in all classes of organised industry in India was, however, undertaken by the International Labour Office in 1925.[3] But at the announcement by the British Government of the appointment of the Royal Commission on Labour in India, the Office decided to postpone the publication of its own report and submitted the manuscript of its exhaustive survey to the Royal Commission in 1929, that is, before the Commission had begun its

[1] *Cf.* Author's *Plantation Labour in India.* "It is the first systematic attempt to bring together all the available information on the subject of plantation labour."—*The Times of India,* 26th May, 1931. This book appeared several months before the *Report of the Royal Commission on Labour* and most of the members of the Commission, including the President, had a chance of reading this book at the time of writing their report.

[2] *Cf.* Author's *Labour Movement in India.* This study was undertaken at the time when the labour movement was in its first stage of development. It, nevertheless, outlined the background, present trends and future lines of development.

[3] The author was specially appointed by the International Labour Office for undertaking this research in 1925.

work [1] and also published its material on woman [2] and child [3] labour in India in the *International Labour Review*. It was not until the publication of the Report of the Royal Commission on Labour in 1931, which, though incomplete and defective in some respects as an official document, presented the subject matter in a readable form and supplied a great need for reliable sources of information on labour conditions in all classes of organised industry in India, thus laying down the foundation for the development of an all-round labour policy.

The last factor in the development of an intelligent public opinion is the popularisation of the results of investigations and researches by the press and the platform, both of which have been rather slow to grow in India. This tardy growth of public interest in the labour question is due partly to the pre-occupation of the public mind in such

[1] *Cf. Report of the Royal Commission on Labour in India*, 1931, p. 3. Private use has also been made of this manuscript. See Professor André Philipp's *L'Inde moderne*, preface to French edition.

[2] *Woman Labour in India*, by Rajani Kanta Das, M.Sc., Ph.D. ; A reprint of two articles from the *International Labour Review*, October and November, 1931. "A standard work of reference on the subject."—*Calcutta Review*, February, 1935.

[3] *Child Labour in India*, by Rajani Kanta Das, M.Sc., Ph.D.: A reprint of two articles from the *International Labour Review*, December 1933, and January 1934. "This is the first of its kind."—*Servant of India*, 31st May, 1934. In spite of the publication of the Report of the Royal Commission on Labour, there was a great need for the treatises on woman and child labour, the material for which had been gathered by the author even before the appointment of the Commission.

more immediate questions as religion, reform and nationalism and partly to the apathy, indifference and ignorance of the public as to the significance of labour in modern industrial society. The importance of the labour question has, however, been recently brought before the public by the following factors: first, gross abuses connected with the recruitment of labour by professional recruiters or *arcatties*, for Assam tea gardens, especially in the last quarter of the nineteenth century;[1] secondly, the shortage of labour for organised industry in the early years of the present century; thirdly, excessive hours of work in the Bombay Presidency during 1904 and 1905, which was strongly protested against by the Anglo-Indian press;[2] and finally, industrial unrest which first appeared during the post-war period and almost paralysed the organised industry of the whole country,[3] thus drawing public attention to the importance of labour in modern industrial organisation.

With increasing literacy among the middle classes, accumulation of official documents on labour, and a growing interest in the studies of the labour question by students of economics and sociology, and last, but not the least, a new awakening among industrial workers, there has

[1] *Cf.* Author's *Plantation Labour in India*, Chapter IV, pp. 63-86.

[2] *Cf.* Author's *Factory Legislation in India*, Chapter IV, p. 101.

[3] *Cf.* Author's *The Labour Movement in India*, Chapter VII, pp. 65-67.

also been growing an intelligent public opinion on labour questions. The Indian public has just begun to realise the necessity of labour legislation and has given its support to the majority of the recent legislative measures. What is needed is the constant contact of the public mind with the working and living conditions of wage-workers and the realisation of the fact that the amelioration of their condition is closely connected with the general progress of society.

Workers' Class Solidarity

Public opinion alone cannot, however, solve the problem of labour which directly relates to a class rather than to society as a whole. With the exception of certain purely protective measures, such as those relating to health and safety, which are mostly in the domain of the State function, the ultimate solution of labour problems, even through legislation, depends to a large extent upon the ability of workers (*a*) to bring their grievances before the public and to show the significance of their remedy to general social welfare, (*b*) to take concerted action and to make collective demand upon employers for better conditions of life and work, and (c) to persuade Government to undertake adequate legislative measures on their behalf.

The greatest obstacle in the development of class solidarity among Indian workers is the absence of any permanent class of industrial

workers, to which fuller reference will be made in the next section. Although organised industry has established itself for over two generations and employs at present over 5 million workers, by far the greatest majority of these workers still remain an inarticulate, incoherent and floating mass and have not yet become a self-conscious, independent and permanent class with a well-recognised status and with distinct rights and privileges as well as with well-developed sense of duty and obligation in modern industrial society. The absence of such a class is a hindrance not only to the development of industrial efficiency on which depends success of modern industry, but also to the intelligent citizenship and enlightened social membership of a large proportion of the population.

The absence of a permanent class of workers in organised industry is the basic cause for the lack of class consciousness, which is a preliminary condition for the growth of class solidarity. Most of the industrial workers are recruited temporarily from the village, where they expect to return as soon as they are through with their work in the city and do not settle down nor bring their families with them to industrial centres. Without permanent interests, there cannot arise any class consciousness. Migratory habit, temporary nature of work, and illiteracy and ignorance thus stand in the way of the development of class consciousness among industrial workers in India.

In recent years, there has, however, been a new awakening among them. This is due to several factors, namely:—First, the rise of a class of workers in large cities such as Bombay and Ahmedabad, who are becoming increasingly dependent upon organised industry for their livelihood. Secondly, the increase of education among the higher classes of salaried persons, especially among railway employees. Thirdly, industrial conflict which has become a common feature in most organised industries since the post-war period. Fourthly, the rise of the labour press, which, although still in its infancy and reaches only a small class of industrial workers, has nevertheless become an important factor in awakening class consciousness.[1] And finally, the rise of a group of public men who have taken up the cause of labour and carried on labour movements, propagating the doctrines of class consciousness and class struggles among industrial workers since 1918.[2]

1 The first labour organ was started by Mr N. M Lokhanday in 1890 under the name of *Dinabandhu* or the "Friend of the People." Among the most important labour periodicals might be mentioned the following: *Indian Labour Journal*, *Trade Union Record*, *Indian Labour Review* (now extinct), *Indian Railway Magazine*, *Railway Times*, *Labour Times*, *Labour Union Herald*, *General Letter*, *Railway Labour* and *Postal Advocate*.

2 The first labour leader was Mr. N. M. Lokhanday, who sent a memorial to the Factory Labour Commission of Bombay in 1884 with the signature of 5,500 workers. The number of persons taking active part in the trade union movement at present is legion and space allows us to mention only a few namely:—(1) Among the national leaders—Messrs.

The absence of a permanent industrial working class and the tardiness in the rise of class consciousness account for the lack of class solidarity among industrial workers. Since the post-war period there is, however, a growing tendency towards solidarity among workers as indicated by the growth of trade unionism which has opened a new chapter in the history of Indian labour. Arising from a strike committee in 1918, trade unionism has multiplied in both number and membership and by 1935-36 there were 236 registered trade unions with a membership of over 268,000.[1] Some of these unions have federated into provincial and national unions, e.g., the All-India Trade Union Congress and the Indian National Labour Federation, and have acquired national and international status inasmuch as they can be represented in the national legislature and the International Labour Conference.[2]

N M Joshi, V. V. Giri, R R. Bakhale, J Mehta, M. K. Bose, Shiva Rao, Dewan Chaman Lal. (2) Among the local leaders—Miss A. Sarabhai and Mr. G. L Nanda (Ahmedabad); Miss M. Kara and Messrs. S. C. Joshi, R. S. Nimkar, S. Munawar and S. V. Parulekar (Bombay); Messrs. A. Ali, S C. Sen and S N. Banerjee (Calcutta); Messrs. R. W. Fulay, R S. Ruikar and V R. Kalappa (Nagpur); Messrs. G. S. Chetty and R. M R. Mudaliar (Madras); H. N. Shaśtri (Cawnpore); and P. C. Bose (Jharia).

[1] *Note on the Working of the Indian Trade Union Act of 1926*, for 1935-36, Statement I.

[2] The origin of labour organisation may be traced to 1890, when a "Bombay Millhands' Association" was founded by Mr. N. M. Lokhanday, the first labour leader in India. The modern trade unionism began, however, in 1918 in Madras under the leadership of Mr. B. P. Wadia

In spite of these achievements, class solidarity still lags behind in India. First, the real solidarity of class interests implies the presence of a permanent class of industrial workers and of class consciousness, both of which are lacking in India, as noted above. Secondly, the trade union movement is mostly led by outsiders, and workers themselves have not yet been able to stand on their own legs. Finally, the political, social and economic conditions are also detrimental to the growth of class solidarity. Coming from the so-called "lower classes," and being illiterate, poor and deprived of fundamental civic rights, they can scarcely be expected to carry on intelligent and concerted action for the achievement of their class interest and for the exercise of their rights and privileges. The essential condition of class solidarity is the development of a class of industrial workers, which will be naturally followed by the rise of class consciousness and class solidarity. It is only when workers are able to organise themselves solidly and to make collective demands for the betterment of their working and living condi-

The present trade unions in India may be divided into five headings, namely, (1) craft or trade union, *e.g.*, Weavers' Union of Ahmedabad; (2) trade union, *e.g.*, Card Room, Blow Room and Frame Department Union of Ahmedabad; (3) industrial union, *e.g.*, National Seamen's Union and G. I. P. Railway Workmen's Union; (4) labour union, *e.g.*, Bombay Girni Kamgar (a red flag union); and (5) federation of unions, *e.g.*, Ahmedabad Labour Union and All-India Railwaymen's Federation.

tions and for the enjoyment of equal civic rights and social privileges, that their voices will become an important factor in the development of a national labour policy.

Employers' Enlightened Interest

Another important factor in the development of a sound national labour policy is enlightened self-interest on the part of employers or capitalists, who have played an important part in the development of modern industrialism Capitalism has contributed much to the growth of social capital and industrial organisation and fulfilled its historical mission in industrial evolution. It is not, however, an integral part of modern industrialism as is indicated by the rapid and successful development of modern industries under State control in some countries. Moreover, the present world-wide economic depression has shown some of the fundamental defects of the present capitalistic organisation as a productive system.

In spite of its defects, capitalism is not yet a spent-up force. Social inertia, vested interests, lack of a better substitute and even some of its intrinsic merits will still keep it alive at least for some time to come. Moreover, if modified and adapted to new social conditions as indicated by the increasing claims of workers upon a larger share in industrial profit and personal management,

capitalism may still play an important rôle in industrial development, especially in backward countries.

As far as labour is concerned, employers have a two-fold interest, namely, (1) direct and (2) indirect. The direct interest of employers in labour lies in its efficiency as indicated by the lower cost of production and higher profit. The success of an industrial enterprise does not depend upon efficient organisation and management alone, but also upon efficient and contented labour as secured by better working and living conditions and greater educational facilities, which no individual employer is able to provide until they are universally adopted by all employers and enforced by the State with its legislative and administrative powers.

The indirect interest of employers in workers' welfare is as great, if not greater. The success of modern industry depends to a large extent upon the social, political and economic development of the masses, which can assure them a steady and dependable home market, as indicated by their increasing purchasing power and the growing industrial efficiency in the face of international competition. Most of the technical improvements and inventions, which give the industry of one country advantages over those of another, are often the results of intelligent and efficient labour. What is still more significant is the fact that there lies immense potential energy among the working

population which can be developed and utilised for the benefit of industry. Moreover, subsidy and protection received by many industries are also often secured with the goodwill and intelligent self-interest of workers in all democratic countries. An intelligent and efficient class of workers is in fact a great national asset, of which employers are the immediate beneficiaries.

There are several factors which have retarded the growth of an intelligent self-interest in the labour question on the part of employers in India. First, the backward and degrading condition of workers, the majority of whom, through illiteracy, ill-health, poverty, untouchability and superstition, live an almost sub-human life and occupy a very insignificant position in the social organisation of the country. Secondly, the tardy growth of the policy of national economy which is due partly to the lack of self-government and national self-consciousness and partly to the retarded growth of modern industrialism. Finally, the domination and control of most organised industries, with the sole exception of the cotton manufacture in the Bombay Presidency, by foreign capital which, although pioneer in the field, can scarcely be expected to take active part in the growth of indigenous industry, political autonomy and national economy.

In recent years, there has, however, been a great change in the social, political and industrial organisation of the country. First, social movements

such as the Renaissance, the *Swaraj* (self-government), *Swadeshi* (use of indigenous articles), non-co-operation and industrial unrest have awakened the masses to a new consciousness and shown their importance in the social and economic organisation of the country. Secondly, the gradual development of political autonomy and the change in the economic policy of Government through protection and subsidy have led to the foundation of national economy. Finally, the rise of indigenous enterprise which has been taking an increasingly important and aggressive part in organised industry and has, through consolidation of its position, become a dominant factor in national life. What is needed is the realisation by employers of the fact that their true and permanent interest in modern competitive industry lies, both for steady market and for efficient labour, in the social, political and economic development of the masses in general and of the wage-workers in particular.

Representative Government

The last but not least important factor in the development of a sound labour policy is representative government. As the supreme authority, Government has the right to undertake any measure which is deemed necessary and to exercise such prerogatives whenever occasion arises. But in all

democratic countries, Government is a representative institution and no measure can be undertaken without consulting the divergent and often opposing interests on any vital question, such as labour legislation, in which the interests of labour and capital are not always the same and in which the public in general has also a vital interest.

Reference has already been made to the representation of labour and capital in all stages of labour legislation, but the main point is whether both of them have equal chance in the matter of representation for the development of a genuine labour policy. As a matter of fact, employers have greater advantage in representation than workers. It is partly due to the wealth and power which they enjoy in society, and partly to the influence they exert upon the public and Government. Some of the public men as well as of the Government officials are in fact stock-holders in industrial enterprise and their natural interest lies with employers. The press and the platform are also often controlled and owned by employers. Some of the towns are nothing but the outgrowths of the industrial enterprise, *e.g.*, Jamshedpur. It is only natural for employers therefore to take advantage of that privileged position.

Workers' representation, on the other hand, suffers from several defects. First, most of the workers are helpless, depending upon employers

even for their daily bread and often living in the houses supplied by employers especially, in mines, plantations and even many factories. Secondly, most of the workers in India are uneducated and unorganised and are scarcely in a position to cope with employers, who have the advantage of better education and higher organising power. Thirdly, Indian workers are not yet able to represent their own interest directly in committees, commissions, legislatures and the International Labour Conference and have to depend upon outsiders for that purpose. Finally, the number of seats reserved for labour representatives in the central and provincial legislatures had until recently been much inferior to that of employers. Under the new Constitution, this defect has, however, been largely remedied and the workers have been granted almost the same number of seats as the employers, as will be seen presently. But the real representation of workers depends upon the growth of their education, organising capacity and political power, and involves a complicated problem.

2. Development of Industrial Labour

A more immediate legislative problem in India is the development of industrial labour, or the creation of opportunities for the growth of a permanent class of workers in order to ensure an adequate

supply of efficient labour for a rising modern industry on the one hand, and for creating intelligent citizenship and responsible membership in modern industrial society on the other. Reference has already been made to the importance of collective bargaining for industrial workers and the various methods of developing it. But the subject is of supreme importance to the cause of labour and needs further discussion.

The soundness of creating a new class of industrial workers may be questioned, especially in India, where the caste system has been one of the most important causes of its social stagnation. But it may be pointed out that a class is not the same thing as a caste. While the latter is rigid, close and hereditary, the former is flexible, open and optional. In fact, there was never a time in the history of the world when classes did not exist in some form or other. The motive forces of all human activities are some fundamental interests around which people group themselves for the achievement of their desired ends. So long as these classes are formed around these interests, whether social, political or economic, they are beneficial to the general progress of society. Industrial workers in India are at present recruited from all castes, creeds and races, and it is natural that they should group around some common interest for the betterment of their social, political and economic conditions.

Need of Industrial Workers

The importance of industrial workers in modern society cannot be minimised. First, modern industrialism has come into existence in the process of industrial evolution and is the most efficient system of production known up to the present. The progress of industrialism depends, however, as much upon the initiative and enterprise of industrial leaders as upon the intelligence and efficiency of industrial workers, especially in the face of international competition and increasing rationalisation. Secondly, by acquiring education and efficiency, workers not only add to the success of modern industry, but also to the moral and intellectual development of the whole society, of which they form an increasingly important part. Finally, the progress of labour legislation and the development of labour policy depend upon the class-consciousness, class solidarity, and bargaining power of industrial workers, and implies, in the final analysis, the rise of a permanent body of such workers in modern society.

The present social institutions of India, however, stand in the way of the development of a permanent class of industrial workers. First, India still lives in mediaevalism ; *mores*, custom, caste, creed, and the joint family system still control the life and labour of the masses, and their abject poverty and colossal ignorance are aggravated by social stagnation and cultural backwardness. Most

of the workers are kept down to the soil where they are born, by ignorance, poverty and inertia on the one hand, and the lack of industrial opportunities on the other. Secondly, industrial workers, now drawn from rural communities, are mostly illiterate and often unfit for work in modern industry : they have neither the physical stamina nor the technical education and power of application needed for intensive work. This lack of industrial efficiency is not only hindrance to the growth of modern industrialism, but also to the progress of industrial society.

The immediate obstacle to the growth of industrial labour is the fact that most of the workers come to an industrial centre for temporary work and still keep connection with the village. That there is a certain advantage in this link of workers with the village as a refuge in the case of old age and industrial depression must be admitted. But industrial work does not necessarily mean the lack of provision for such eventualities, and this is a poor compensation for the utter lack of industrial efficiency which is essential for the success of modern industry and for the benefit of workers themselves. It is impossible to think that ill-nourished, ill-nurtured, illiterate and ignorant peasants, drawn at random and at a comparatively mature age from rural districts, could be easily adapted to modern complicated machinery and productive process for efficient work. The surprising thing is not that

they are inefficient, but that they can be adapted to do such work at all, thus indicating their potential efficiency, of which the present writer has given sufficient proof by his investigation of Hindustani workers on the Pacific Coast of North America.[1]

The rise of a permanent body of industrial workers is likely to result in severing their connection or link with the village, which the Royal Commission on Labour has made every effort to maintain. The Commission has made elaborate recommendations for trade unionism, collective bargaining and social welfare for industrial workers, who do not exist as a permanent class or exist only in a migratory state. Moreover, the full success of some of its recommendations depends upon the active interest, effective demand and constant co-operation of a class-conscious and well-organised and well-disciplined working population. Without such a foundation, many of the recommendations of the Commission seem to be like a fine edifice built on sandy soil.

As a matter of fact, the Commission has failed to realise a very fundamental point in all its investigations and recommendations, that is, the importance of industrial workers in the social, political and economic development of modern society, as well as the significance of recognising

[1] Author's *Hindustani Workers on the Pacific Coast*, Chapter VI.

the status of such workers in stimulating them to become active and intelligent citizens for the guidance of their destiny and for the development of their welfare. The Commission admits that most of the workers employed in factories, although not divorced from the land, are in need of factory work, but still recommends that the link of factory workers with the village from which they are drawn should be maintained.[1] The village link which the Commission wants to preserve is responsible for a three-fold evil :—(1) the migratory and desultory habit among workers and the high rate of labour turnover in factories; (2) lack of specialisation by workers in any occupation and of thus acquiring industrial efficiency ; and (3) the separation of workers from their families, leading to sex disparity in the industrial town with its consequent vice and disease.

Some of the advantages of village life are too obvious to require any discussion, but the village, especially in modern India, is not without great defects, such as congestion and overcrowding, increasing pressure upon the land and consequent under-employment. Moreover, the preponderance of the rural population, which amounts to about nine-tenths of the total population, is one of the fundamental causes of India's social stagnation. Defects of the modern industrial town are also well-

[1] *Cf. Report of the Royal Commission on Labour in India*, p. 20.

known. But these defects are not inherent and can be remedied, as has been done in many Western countries. Nor is there any necessity to encourage the growth of such large cities as Calcutta and Bombay. The town has also its advantages, as it quickens the mind, broadens the outlook, and offers educational facilities to children, industrial opportunities to adults, and also freedom of conscience and action to all classes of people. In Europe, the town once served as a shelter from the rigour of serfdom, and the Indian town has a somewhat similar function to perform in the breaking down of servitude, caste and untouchability. In fact, the town is the cultural centre and the dynamic force of modern civilisation, and no country is in greater need of urbanisation than India.

The point at issue is not, however, whether workers should live in the town or in the village. They must live in or near the place of work and if permanently employed, they must also have their families with them. Since factories give rise to the town or are located in town, it is only natural that factory workers should also live in the town or in its immediate neighbourhood. The problem of unemployment resulting from industrial disputes or trade depression should be solved by unemployment insurance and other means rather than by resorting to the village for security. It is not meant that the deep-rooted connection with the village should be cut off artificially, but, if the industrial

town is well planned and housing conditions are improved on the lines suggested by the Commission and reasonable security is created for employment, workers themselves will find it convenient and advantageous to live in the town instead of in the village. It is only when workers settle down in the place of work that they can specialise in a trade, organise themselves into trade unions, demand sanitary and comfortable housing, bring their families to live with them, take an interest in civic life, and develop into efficient workers and intelligent citizens, thus ensuring the success of modern industry and the welfare of modern society.[1]

Like any other class, the emergenee of industrial workers as a permanent class is determined by social and economic forces. Men and women flock to the places of industrial opportunity and settle down and develop, in course of time, their aims, aspirations, attitudes and ideologies according to the social, economic and political conditions. Since any unregulated concentration of the population in an industrial centre within a limited space is liable to give rise to the slum, some control is needed even in the case of such concentration. But what is still more important in India is to

[1] *Cf.* Author's article on "The Royal Commission on Labour in India: Observations on the Report"—*Modern Review*, Calcutta, May, 1932.

create facilities for permanent settlement of migratory workers with their families in or near industrial centres, who may eventually become efficient workers in modern industry, intelligent citizens in the modern State and responsible members in modern society Of the various methods for the development of such a class of industrial workers, the following are the most important, namely, (1) provision for adequate housing; (2) improvement of public health ; (3) general and vocational education ; (4) security of employment and income ; and (5) suffrage and political solidarity.

Provision for Adequate Housing

The first and foremost step in faciliting the growth of industrial labour is the provision of housing accommodation. The importance of such provision by Government has already been discussed. Under the conditions of modern industrial civilisation, considerable numbers of the people have to live in or near industrial centres where, owing to limited space and the high price of land, most of them are unable to own or even to rent any decent housing accommodation at a reasonable rate. It has thus become the duty of Government whether central, local or municipal, to provide adequate housing with proper sanitation and reasonable comfort at a rent which the average worker in each locality is able to pay.

Government has many advantages over a private party, whether individual or corporation, in providing housing accommodation :—(1) the possibility of taking a longer view in planning the industrial town including residential quarters for workers, with special reference to sanitation, communication, market and school ; (2) the provision of land out of its own reserves, or the acquisition of it on easier terms, and also the securing of loans at a much lower rate of interest ; (3) greater economy in the sevices of architects, engineers and public health officers through the employment of its own salaried staff ; (4) the purchase of material at a wholesale or cheaper price or even the manufacture of it whenever necessary; and (5) the subsidising of the whole scheme and the adoption of a sliding scale of rent.

The central points in the provision of housing by Government are the economy in cost and the sliding scale of rent. The object of the scheme is not to establish a charitable institution, but only to economise in cost and make it possible for the average worker to occupy a sanitary and comfortable house at an economic rent which would be much lower than that charged by the speculator. Moreover, for the same reason of economy, Government may make a fair profit and yet charge a rent much lower than the market rate in some cases and may even make concession to the needy in times of unemployment and distress in others.

Government action has become necessary in India due to the deplorable conditions of housing accommodation in most industrial centres, such as Bombay and Ahmedabad. Although a certain number of employers house their own employees, most of the workers rent their housing accommodation from private speculators. Nine-tenths of the workers in Bombay and four-fifths in Ahmedabad live in one-room tenements, most of which lack lighting, ventilation and sanitation and are congested, overcrowded and often unfit for human habitation. It is this lack of sanitation, comfort and decency, and high cost which prevent most of the workers from bringing their families to the place of work and living a normal family life.

These deplorable housing conditions led the Royal Commission on Labour to realise the importance of Government initiative in providing industrial housing and to make elaborate recommendations, of which the most important are the following [1] : —

(1) The enactment of town-planning Acts in Bombay and Bengal and the amendment of the existing Act in Madras with provisions for (*a*) the acquisition and layout of suitable areas for working-class housing ; (*b*) the opening up and

[1] *Report of the Royal Commission on Labour in India*, pp. 287-93.

reconstruction of congested and insanitary areas; (*c*) Government grants and loans to approved schemes; and (*d*) the "zoning" of industrial and urban areas.

(2) The survey of urban and industrial areas by provincial Governments to ascertain housing needs and the development and layout of industrial areas and for the provision and maintenance of proper sanitary conditions by local authorities.

(3) The incorporation by local authorities into their by-laws of the minimum standard regarding the floor and cubic space, ventilation and lighting and the regulation of water supply, drainage system and latrine accommodation and the preparation of the type-plans of working class houses by public health departments.

(4) The undertaking by municipalities of preliminary work without waiting for additional legislation, such as appointment of qualified officers, the improvement of health organisations, revision of by-laws dealing with health and housing accommodation, and the preparation of plans for the extension and improvement of areas set apart for housing schemes.

(5) Statutory obligation on the part of the improvement trust to provide housing for its workers; sale or lease of land by Government to those who agree to build houses within a specified period; subsidy to employers willing to undertake approved housing schemes; and encouragement to co-opera-

tive societies and similar organisations to undertake reconstruction of houses under a certain degree of supervision.

The variety of the recommendations indicates the realisation by the Commission of the urgent need of solving the housing problem. Some of the recommendations are scarcely commendable, such as the sale or lease of land for building purposes to persons other than those who will be ultimate dwellers and also subsidy to employers undertaking housing schemes, except in certain cases and under certain specific conditions on principles already discussed. But the housing scheme by the improvement trust for its workers is a laudable one and the encouragement to co-operative and other similar societies to undertake housing reconstruction is based on a sound policy, inasmuch as it gives a chance to workers to own their houses on the hire-and-purchase system, as has actually been the case in Nagpur and Ahmedabad. The burden of taking the initiative in developing and improving housing conditions on a large scale falls, however, on Government, especially in the provinces, which have been granted by the new Constitution a large share of autonomy in welfare legislation.

Improvement of Public Health

The second step in facilitating the development of industrial labour is the improvement of public

health. Housing itself requires the service of public health departments with reference to designing for lighting and ventilation and for floor and cubic space, pure water supply and sanitary conservancy, as noted above, but public health covers a much larger ground in modern society.

Reference has already been made to the necessity of Government action with reference to public health. It has gradually extended its scope to include many phases of modern corporate and complicated life, such as the following: (1) control of infectious or contagious diseases; (2) control of adulteration of food; (3) research and propaganda for the nutritive value of different foodstuffs; (4) distribution of medicine and medical aid to the needy; (5) provision for sanitary conditions for the newly born and their mothers and the institution of maternity benefit; (6) provision of birth control clinics in industrial and other congested areas; and (7) sickness and old age insurance.

The importance of improving public health has been brought before the Indian public by several factors, of which the following are the chief: First, the high birth and death rates which are respectively, on the basis of quinquennial averages ending 1935, 34·4 and 23·5 per mille in India as compared with 15·5 and 12·2 in the United Kingdom,[1] indicating

[1] Including Indian States. *Cf. Statistical Year Book of the League of Nations*, 1936-37, p. 40.

not only a low standard of living and absence of conscious control over the size of the family but also the poor condition of health among the Indian population. Secondly, the average length of life in India is only 24·8 years for males and 24·7 years for females, giving an unweighted average of 24·75 years in India, as compared with 55·6 years in England and Wales.[1] More serious than mere death rate is the general debility and low vitality of the people brought about partly by under-nourishment and partly by the prevalence of various diseases. As a matter of fact, the health of most Indian workers is very poor, especially in large cities like Bombay.

The Royal Commission on Labour realised the importance of improving workers' health and made a series of recommendations, of which the most important are the following: (1) establishment of an Institute of Nutrition as recommended by the Agricultural Commission, for both research and propaganda; (2) rigorous enforcement of Adulteration of Food Acts; (3) strengthening of the public health departments to deal with industrial hygiene and industrial diseases; (4) enactment of comprehensive public health Acts by all provinces; (5) employment of a malariologist in the health department of each province; (6) appointment of women in public health departments and hospitals;

[1] *Census of India*, 1931, p. 98. *Annuaire statistique*, Paris, Divers Pays, p. 264.

and (7) exploration of methods leading to the alleviation of existing hardships arising from the need of provision for sickness.

The recommendations of the Commission represent an elaborate programme for improving public health, but only a few of them have been given effect to, as noted above. The sanitary conditions are so deplorable that nothing but serious and constant attempts can solve them. Moreover, the question of better nourishment is closely connected with higher wages, and national or social economy.

General and Vocational Education

Next to health is the question of education, which is as important to the mind as health is to the body. What is in fact the best and noblest in man is the expression of his mind through the gradual process of education, both traditional and institutional. Education is needed not only for moral and intellectual development, but also for responsible membership in modern society, intelligent citizenship in the modern state and efficient work in modern industry. It is the realisation of this fact that has led most advanced nations to introduce free universal and compulsory primary education.

The importance of primary education in modern industry cannot be minimised:—First, it is a

preliminary condition for other education, both general and technical. Secondly, it is essential for better adapting oneself to the power machinery and complicated process of modern industry. Thirdly, it is necessary to comprehend the modern industrial system, to guide group activities for the common interest and to acquire the power of collective bargaining. And finally, compulsory primary education, including various forms of organised games and sports, is a schooling not only in acquiring knowledge but also in upbuilding character and in developing some of the essential qualities of efficiency in modern industry.

There is, however, no system of free compulsory primary education in India and the great mass of the population is still illiterate. According to the Census of 1931, the total literate population is only 28 millions, or about 8 per cent., and taking only the persons of 5 years of age and over, 9·5 per cent.[1] The responsibility of primary education in British India rests upon provincial Governments, and since 1918 eight provinces have passed primary education Acts authorising the introduction of compulsory education by local option in urban and rural areas, either for boys alone or for both boys and girls from 6 to 10 years of age, and in some cases education may be extended to a longer

[1] A reference to the whole of India. *Cf. Census of India, 1931*, Vol I, Part I, pp. 324-25.

period. As late as 1934-35, only 10,576 localities, out of 505,057 towns and villages in British India, introduced compulsory primary education.[1] In 1931, the total number of children of school-going age, *i.e.*, from 5 to 14 years, was about 67 million and the total number of scholars of all ages, including persons under 15, amounted to 12·76 million, indicating that over four-fifths of the children of school-going age did not have any chance of attending school.[2]

It is due to the lack of primary education that practically all Indian workers in modern industry are illitetate. " In India," says the Royal Commission on Labour, " nearly the whole mass of industrial labour is illiterate, a state of affairs which is unknown in any other country of industrial importance. It is almost impossible to overestimate the consequences of this disability, which are seen in wages, in health, in productivity, in organisation and in several other directions. Modern machine industry depends in a peculiar degree on education and the attempt to build it up with an

[1] *India Year Book*, 1937-38, pp. 368-69. Compulsory primary education was introduced in 166 urban areas and 3,138 rural areas, the latter comprising 10,410 villages.

[2] In 1933-34 there were 200,134 primary schools with 9,806,356 scholars in British India, excluding scholars reading in the primary classes of secondary schools. Compiled from *Statistical Abstract for British India*, 1937, Table No. 138.

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illiterate body of workers must be difficult and perilous.''[1]

A most important problem for India today is the introduction of universal and compulsory free education, which is the key to her social regeneration, political development and industrial progress as well as to the solution of her many other outstanding problems. Like defence, education is a national question and since both the Government of India Act of 1919 and that of 1935 have made primary education a provincial subject and, what is still worse, the Acts of provincial Governments have made it dependent upon local option, there is no chance of rapid progress in primary education in India. The education of an additional number of fifty million or more children is not an easy task, but education is an investment and no investment is more profitable in the long run than that in the education of the masses.

Primary education lays only the foundation. The achievement of industrial efficiency depends largely on vocational education or conscious and purposive training of children for certain types of occupation in modern society. Vocational education should be preceded by vocational guidance or the direction of young persons towards the careers which are best suited to their inherent dispositions and abilities. Although still imperfect, vocational

[1] *Report of the Royal Commission on Labour in India*, p. 27.

guidance has established its claim upon national policy and appropriate legislative measures have also been taken by advanced countries to establish it as the national institution for guiding the careers of young persons Like inspection of schools, it has thus become necessary to provide vocational guidance for young persons in both primary and secondary schools.

While vocational guidance gives the start, the preparation for a career in modern society can be made only through vocational education. Apprenticeship as a means of vocational education is quite inadequate for preparing workers in a modern industry. Industrial technique has developed to such an extent and requires such extensive studies, both in theoretical and applied sciences, that very few industrial establishments can have adequate facilities for such education. It can be imparted only by such specialised and professional schools, colleges and institutions as those of technology, engineering, medicine and agriculture. Vocational education has, however, made very little progress in India. In 1933-34 there were only 69 professional colleges and 7,648 special schools, with 9,430 and 254,828 scholars respectively, in the whole of British India.[1] It is the lack of provision for general and vocational education

[1] Compiled from *Statistical Abstract for British India, 1937*, Table No. 138.

which largely accounts for the social, political and economic backwardness of India.

Security in Employment and Income

The most important factor in developing industrial labour is, however, security in employment and income. Indian industrial workers are largely born and brought up in the country, where they often own their homesteads and houses. They lack most of the amenities of life, such as sufficient food, good health, comfort and decency, and education and culture, but they have in most cases some kind of economic security which counts above everything else. Without the prospect of such security, most of the workers will scarcely move from the village to the town.

To ensure employment and income is not, however, an easy task, especially in a vast country like India and in the present condition of national and international depression. The problem is not, however, insoluble though difficult. First, the security needed is only reasonable and relative rather than absolute. Indian workers have gone out to British and other colonies in search of work, even under the indenture system, and they will not hesitate to go and settle down in a town in their own country if they find reasonable security of employment and housing. Secondly, the question of a permanent class of industrial workers relates only to the skilled and semi-skilled labourers, who are

comparatively small in number. On the basis of the proportions of the skilled labourers to the unskilled in 1921, when the figure was 27 per cent., the total number of skilled workers at present will not be more than 1·35 million all over British India.[1] Unskilled workers will remain migratory as long as there are more economic opportunities, as provided by planting and harvesting seasons, in the country than in the town. But with the progress in the urbanisation of the country and stabilisation of employment, the demand for unskilled labourers will also increase in the town and many of such workers may eventually find it profitable to live in or nearby the industrial centres.

The stabilisation of national employment is closely related to the policy of national economy. India has one of the largest potential home markets for manufactured goods and has also vast resources of mechanical power, raw material and labour force; her capital resources are considerable and indigenous business enterprise has also been increasing rapidly; moreover, she has made a good beginning in national government and has also developed a policy of discriminate protection, all of which assure her success in modern industrialism. The volume of national employment

[1] *Census of India, 1921*, Vol. I, Part I, p. 292. Out of 2,608,122 workers in all industries employing 20 persons or more, only 724,980 or 27 per cent. were skilled workers. The number of workers in all classes of organised industry in 1931 has been estimated to be about 5 million.

depends, however, upon the organisation and development of important industries, such as (1) those in which she has natural advantage ; (2) those which relate to food and clothing, e.g., sugar and textiles which, as a great agricultural country, she can ill afford to import ; (3) those which are vital to her national economy and the key to her other industries; and (4) those which are necessary for her national defence and for the development of higher skill or national genius. The development and stabilisation of these and other similar industries, with the help of protective measures whenever necessary, will be followed by steadiness in the labour market and the growth of a permanent class of industrial workers.

In spite of all these attempts at stabilisation, the volume of national employment is liable to occasional fluctuation ; and temporary unemployment may arise from business cycles, industrial conflict and even rationalisation. These contingencies cannot be altogether avoided; even handicrafts are not immune from occasional depression and agriculture depends more upon the vagaries of the climate than manufacture. But there are also means to mitigate the effects of such eventualities. First, the appointment of public employment agencies for establishing relationship between the demand for and the supply of labour and thus, incidentally, for controlling the abuses arising from the present system of recruitment by jobbers and

foremen. Secondly, the statutory recognition by employers of trade unionism so that workers may settle their grievances with employers through negotiation and avert many unnecessary disputes. The appointment of a labour officer by the Government of Bombay to take up workers' grievances with employers has also reduced industrial conflict in Bombay and may be tried elsewhere. Thirdly, the introduction of a joint scheme of unemployment insurance, e g., the one outlined by the Fawcett Committee of 1928-29 and recommended by the Royal Commission on Labour, whenever any comprehensive scheme of reducing the staff is contemplated in any industry. Finally, the introduction of some kind of unemployment insurance on the lines of the system devised to deal with famine in rural areas, the possibility of which the Royal Commission on Labour asked the Government of India to examine.[1] Unemployment is in fact a part of the modern industrial system and unemployment insurance should be regarded as the necessary cost of production; its solution must be attempted on a broader national basis in India, as is being done in other industrialised countries.

Sickness and old age are also other risks against which workers in India may need better protection in the town than in the country, where the joint family system and community life may often save them from destitution and starvation. But the

1 *Report of the Royal Commission on Labour in India*, pp. 35-36.

joint family system has already begun to disintegrate and the old-fashion community life is also undergoing radical changes. Moreover, social centres have already been established in the town to organise philanthropic work for such emergencies, as indicated by the establishment of child and maternity welfare and social services in Bombay and Ahmedabad. The problem of sickness and old age is, however, much more complicated and requires a more radical solution than private philanthropy or trade unionism can offer. It is a question of national social insurance and has already been brought by the International Labour Conference before the Government of India, and the difficulty of undertaking such a nation-wide scheme by Government has also been realised. In the mean time, a beginning must be made on a smaller scale and organised industry offers the best chance for such an experiment. When that is done, the workers in organised industry will be the first beneficiaries of sickness and old age insurance.

Suffrage and Political Solidarity

Suffrage and political solidarity are still other important factors in the development of an intelligent class of industrial workers. However defective may be modern democracy, no better system of government has yet been devised for giving the individual a chance of self-expression. Moreover,

most of the defects connected with existing democratic governments arise from the abridgment of democracy rather than from its full realisation, and the solution of the problem lies in better democratisation of the social, political and economic institutions, which are still controlled by special privileges. It is only through universal suffrage and political solidarity that the unprivileged can guard their self-interest against some of the exploitations by the privileged.

The enfranchisement of the masses is the basic principle of modern democracy and an essential condition of intelligent citizenship in the modern State. The advantages of universal suffrage are manifold :—(1) it increases personal value and creates self-respect among the people inasmuch as it gives them a chance of taking part in national legislation ; (2) it has great educative value in the exercise of civic rights, and in the fulfilment of civic duties as well as in the popularisation of current topics in politics and economics ; (3) it offers the best means of balancing the divergent interests of various social classes ; and (4) it awakens, through election campaigns, personal interest in civic affairs which are often of vital interest to all citizens.

That industrial workers should be enfranchised needs scarcely an argument. Many affairs of the modern State, such as primary education, public health and protective tariff, directly affect the work-

ing classes and no body can protect their interest better than their own representatives. Industrial workers have, however, vital interest in labour legislation in which they must take active part in order "to voice the desires and aspirations of labour and to translate them into concrete proposals."[1] Labour had in fact its own representatives in the legislature under the old Constitution consisting of one nominated member in the Legislative Assembly and 9 nominated members in provincial legislatures, as compared with 8 and over 50 respectively of commercial and industrial interests.[2] But both the method of nomination and under-representation of labour as compared with that of industry were scarcely conducive to workers' welfare. Important changes have, however, been made under the new Constitution by providing special electorates for labour representation and also by raising the number of seats for labour representatives to 10 in the Federal Assembly,[3] as compared with 11 for the representatives of commerce and industry, and to 38 in provincial

[1] *Report of the Royal Commission on Labour in India*, p. 462.

[2] *Report of the Royal Commission on Labour in India*, p. 316 The 9 members were distributed in the following way: 3 in Bombay, 2 in Bengal and one each in Bihar and Orissa, the Central Provinces, the Punjab and Assam.

[3] Including two seats each for Bengal and Bombay and one seat each for Madras, the United Provinces, the Punjab, the Central Provinces and Berar, and one non-provincial Seat.—*Government of India Act, 1935*, Part II, First Schedule.

legislatures,[1] as compared with 56 for the representatives of commerce, industry, mining and planting, the latter figure including representatives of commerce who are not employers in the real sense of the word.

In spite of improvement in representation, most of the political disabilities of workers still remain and nothing but universal suffrage can solve the problem. Illiteracy cannot very well be evoked as an argument against adult suffrage, though it may temporarily necessitate indirect election in the case of the national legislature. In electing their representatives, industrial workers have, however, some special advantage, inasmuch as many of them come in close contact with labour leaders, from among whom they often choose their representatives. But what is of greater significance to industrial workers is the direct participation in the local or municipal government. Most of the industrial workers live in the industrial town where education, housing, sanitation and even the control of vices including drinking, drug habit and gambling, are direct concerns of the workers and their families. Moreover, they have often to pay rates and taxes and must therefore have direct representation in the municipal

[1] Including 8 seats in Bengal, 7 in Bombay, 6 in Madras, 4 in Assam, 3 each in the United Provinces, the Punjab and Bihar 2 in the Central Provinces and Berar, and one each in Orissa and Sind.—*Government of India Act, 1935*, Part II, Fifth Schedule.

council for defending their own interests. As a matter of fact, some large municipalities like that of Bombay have already included some representatives of industrial workers, but this representation is neither sufficient nor universal.

Suffrage alone is not often sufficient for workers for the full achievement of their moral and material welfare. Politics is so closely connected with economics in modern times that political action is often the only means to achieve an economic end and even some of the social reforms can be brought about only through legislation. Moreover, labour legislation itself is a political institution and requires political activities on the part of workers for its continued progress, and workers' representation in national and provincial legislatures also implies that they should take active interest in both national and provincial politics. Finally, political action on the part of workers is also a means to industrial peace as it diverts some of their grievances into well-organised channels provided by all democratic governments instead of solving them through direct action which is often detrimental to social peace and order. It is, therefore, of utmost importance that industrial workers should develop political solidarity and form themselves into political bodies with a view to taking effective and concerted action in all political affairs affecting their interest. The time may come when these political bodies may develop

into political parties, as has been the case in other countries.

Political activities on the part of industrial workers are not without a possible danger to the trade union movements unless special precaution is taken to avoid it. Industrial workers are a permanent class in modern industrial society and their permanent interest and welfare depend upon collective activity for which trade unionism offers the best means. But nothing has done more harm to the cause of labour than the compromise of trade unionism with political action and the confusion between the means and the end has often retarded the growth of trade unionism and even caused its untimely death. Moreover, designing politicians have often utilised the labour movement to achieve their personal aims, to the detriment of workers' welfare. With the full realisation of its danger and the necessary precaution, workers may very profitably utilise political action for the achievement of their welfare.

The indirect effect of universal suffrage and political solidarity is also of great significance to industrial workers. First, the very fact that their representatives can guard their own interests and take part in all affairs of the central and provincial Governments is no mean cause of the pride and dignity and self-confidence. Secondly, the direct participation by workers in all affairs of municipal government, the struggle for the protection of their

interests and the personal contact with employers in the election campaign and the municipal council, are of great help to the growth of class consciousness, class solidarity and bargaining power. Finally, the very recognition of the claims of labour as a part of the modern social organisation will create in them a sense of civic duty and social responsibility and will contribute to the orderly progress of society as a whole.

3. Organisation of the State Function

The next series of problems arises from the necessity of organising the function of the State for progressive labour legislation. The State or more properly Government is the organised agency of society for realising, among other things, its collective objects. In a dynamic society, Government has always to adopt itself to the aims, aspirations and attitudes of the people. With gradual improvement in industrial technique and organisation on the one hand, and increasing desire on the part of workers for the betterment of their working and living conditions on the other, there is a constant need for the extension and improvement of labour legislation. Labour legislation thus always presents some new problems, the solution of which may require both the structural and functional reorganisation of Government such as (1) constitutional adjustment,

(2) administrative co-ordination, (3) development of research, and (4) adaptative legislation, to which may also be added (5) a national labour council.

Constitutional Adjustment

The constitutional problem of labour legislation in India relates to the distribution of legislative powers between the central and provincial Governments on the one hand, and between British provinces and Indian States on the other. It has been noted that up to this time the British Indian Empire has been divided into British provinces and Indian States which have no relation between them except for the fact that both of them are subject to the British Crown. While the former have been directly under the control of the British Government as represented by the Governor-General in Council, the latter owe allegiance to the Crown, but have been almost independent as far as internal affairs are concerned. Under the Government of India Act of 1935, the Indian Empire will become a Federation comprising both British provinces and Indian States. While both of them will be subject to the direct control of the Federal Government as far as what are called the federal subjects, the former will have a larger autonomy than before in other subjects and the latter will still retain a large part of their semi-independence in internal affairs.

What is more relevant to this study is the fact that important changes have recently been made in the constitutional background of labour legislation. In the beginning all labour questions were central subjects and the Central Government was the sole legislative authority, but provincial Governments could, with the sanction of the Governor-General in Council, legislate on the subjects which were of provincial concern. Under the Government of India Act of 1919 the Central Government was still the only authority to legislate both on central and provincial subjects, but provincial Governments were granted larger powers, although subject to the sanction of the Governor-General in Council, in legislation on provincial subjects. Under the Government of India Act of 1935, the Federal Government retains exclusive legislative authority only on federal subjects and provincial Governments have been granted concurrent powers to legislate on certain provincial subjects and absolute powers to legislate on others.

The distribution of legislative powers between federal and provincial Governments in respect of important labour subjects has raised a serious problem. The soundness of a particular labour measure lies in what may conveniently be called its uniformity throughout the country to which it is applied. This uniformity means that a labour measure or a series of measures on the same

subject should have the same kind of provisions, applied to all similar undertakings and have the same effectiveness in enforcement so that it may not act as a restraint on trade and subject one province to the unfair competition of the others, thus hindering the economic development of the whole country and the progress of labour legislation itself. In order to be of universal use, such a measure must also be relative, flexible and adaptative to the varying needs of different industries or even of provinces, but any modifications to that effect should be brought about under the guidance of the competent central authority rather than at the discretion of the provincial Government concerned and should be achieved by temporary exemptions and special provisions. All these or similar legislative measures regulating the various aspects of the life and labour of workers in different industrial relations, which are of universal application throughout the country and form the component parts of national labour legislation, should be under the direct legislative and administrative control of the Central or Federal Government.

The Government of India realised the danger of local legislation in respect of national industry from the very beginning. When the question of factory legislation was under consideration in the seventies and attempts were made by several provinces to localise it to the Bombay Presidency,

where most of the cotton mills were then located, the Government of India decided in favour of central legislation and passed the Indian Factories Act of 1881 for the whole of British India.[1] Even when provincial Governments were granted powers to enact specific local measures or to make rules and regulations under central legislation, the sanction or control of the Central Government was made necessary in all cases. It is only under the Government of India Act of 1935 that the Federal Government has relaxed or abandoned its control in most labour questions except those which are specifically reserved as federal subjects.

The lack of central control in some important fields of labour legislation has raised the apprehension that the problem of differential labour codes which had been no mean cause of provincial rivalry and impediment to its growth under the old Constitution would become much more complicated under the new Constitution. Provisions have of course been made to maintain the supervisory authority of the Federal Government over the legislative powers of provincial Governments in all measures relating to concurrent subjects by Section 107 (1) and (2) of the Act of 1935 which provides that a provincial law in concurrent legislative subjects, which is not up to its mark as compared with any existing Indian law and proposed

[1] *Cf.* Author's *Factory Legislation in India*, Chapter II.

federal law and otherwise, may be replaced by either of the two latter laws or may even be supplemented by further federal legislation. Moreover, Section 126 (2) also provides that the executive authority of the Federation shall also extend to the giving of directions to a province as to the carrying into execution therein of any Act of the federal legislature which relates to a matter specified in the list of the concurrent subjects and authorises the giving of such directions under certain conditions. These provisions may mitigate the difficulty but are not likely to establish uniformity in provincial legistative measures.

Exclusive legislative powers granted to provincial Governments in some important labour subjects will lead to still greater divergencies in labour legislation. That there are some advantages under this provision must be admitted. A provincial Government may enact labour measures with special references to its local needs as well as to its peculiar social and economic conditions without waiting for outside sanction, and there is a wider field for which a provincial Government may legislate, as pointed out by the Royal Commission on Labour.[1] The question is not, however, whether there is any need for such legislative measures by provincial Governments, but whether they would be willing to undertake any labour measures involving a heavy

[1] *Report of the Royal Commission on Labour in India*, p. 461.

burden on any of its industries, e.g., industrial housing, without having neighbouring provinces undertake similar measures. The necessity of common action in certain measures was envisaged by the Government of India Act of 1935, which provides, under Section 103, that the Federal Government may undertake such legislative measures for two or more provinces, if resolutions to that effect are passed by their legislatures, but the application of such measures is left entirely to the act of local legislatures whether for acceptance or amendment or rejection. The main issue is not to prevent a province from undertaking progressive labour measures, to which it must have perfect right, but from falling behind other provinces in legislative measures and thereby from hindering the progress of labour legislation for the whole country.

In spite of these provisions to counteract the effects of decentralisation of legislative powers the danger of the growth of differential standards in labour measures still remains. The reasons for such apprehension are quite evident : First, mere supervision and direction from above does not ensure uniformity in provincial labour measures. Even the administration by provincial Governments of Section 5 (1) of the Indian Factories Act of 1934 shows wide variations in its application. Secondly, concurrent legislative powers do not necessarily lead a province to undertake prompt legislative

measures. Maternity benefit legislation, for instance, has not yet been enacted by more than three major provinces and adopted by two more minor provinces, although the first step in that direction was taken by Bombay about a decade ago. Thirdly, the necessity of having the consent of provinces in the matter of international obligations may mean tardiness in the ratification of international labour Conventions. Finally, the distribution of legislative powers may mean the diminution of responsibility and initiative at the Central Government and in the matter of progressive national labour legislation. The problem is how to grant sufficient powers to provincial Governments so that they may initiate legislative measures according to local needs and at the same time to co-ordinate their activities under the Central Government so that indifference or negligence of labour measures on the part of one or two provinces may not be a hindrance to the progress of labour legislation for the whole country.

The second aspect of the constitutional problem is still more complex. Under the old Constitution, Indian States, which were only parts of the British Empire, could not become independent Members of the League of Nations or of the International Labour Organisation, and as quasi-independent states, they could not be brought under the control of the British Indian legislation as far as internal affairs were concerned. The draft Conventions

and Recommendations adopted by the International Labour Organisation had, therefore, no effect upon the Indian States. The result was that over 81 million people living in these States, some of which were well advanced and enlightened, remained outside the benefit of the international labour Conventions, although the more advanced of them had their own labour legislation.

Under the new Constitution all those States which will federate with British India must give effect to all international obligations which are entered into by the Federal Government with their consent, as provided by Section 106 of the Act of 1935, and also those legislative measures in respect of the labour subjects which are included in the federal list by the 7th Schedule of the Act of 1935. It may be assumed that all Indian States will sooner or later join the Federation and will also undertake all international obligations and federal labour legislative measures. Provisions have also been made to bring the standard of these legislative measures in Indian States to the same level as that of the federal law by Section 107 (3) and also by Section 128.

As far as as concurrent legislative measures are concerned, the Act of 1935 is not, however, explicit whether the Federal Government will retain concurrent powers also in the Indian States as it has in British provinces. Moreover, under Section 101, a federated State cannot

be compelled to make laws otherwise than "in accordance with the instrument of accession of that State and any conditions and limitations contained therein." Until these instruments are signed and the Federation established, nothing is exactly known as to the real nature of the control which the Federal Government may exercise in Indian States in respect of some important labour questions. But in view of the fact that the advanced Indian States have already enacted some legislative measures similar to those now existing in the provinces, the Federal Government may be presumed to exercise some control upon these legislative measures even in Indian States. But as regards purely provincial subjects, labour codes in Indian States are likely to differ more widely from those in British provinces both in variety and standard.

What is more to the point is the fact that the question of regional rivalry becomes stronger in the case of Indian States *vs.* British provinces than among British provinces themselves. The advantages which some industries enjoyed under the lower standard of labour codes in Indian States have led some employers to transfer their industrial concerns from British provinces to Indian States, and employers in British provinces have raised opposition to the application of draft Conventions to their industries while leaving those in Indian States free from any such restriction.

In fact, employers in British India have often complained against the disadvantages suffered by them in competition with those in Indian States. [1] The federation of Indian States with British provinces will remove some of these greivances, but if differential labour codes in British provinces may be the cause of regional rivalry, those between British provinces and Indian States are bound to accentuate this rivalry to a greater extent.

The decentralisation of legislative power can scarcely be advocated in the face of the world experience to the contrary. First, legislative power in respect of labour retained by the states or provinces in the federal governments of the United States, Canada and Australia, has been found to be very inconvenient not only for the progress of national labour legislation, but also for the fulfilment of international obligations regarding draft Conventions of the International Labour Conference. It must also be borne in mind that these federal governments were formed by consolidation of existing and independent states

[1] The Employers' Federation of India in 1934, for instance, addressed a representation to the Government of India as to differential conditions of labour legislation and other factors which were bound to place employers in British India at a disadvantage. (*Cf. Labour Gazette*, May, 1935, p. 697.) Employers' representatives also asked the Government of India in the Legislative Assembly to extend the scope of the Dock Labourers' Act of 1934 to the maritime Indian States. Employers' delegates in the International Labour Conference have also made similar complaints.

or provinces and not by the decentralisation of any unitary government. Secondly, by the end of the nineteenth century industrial and commercial rivalry among western European countries had also proved to be a hindrance to the progress of national labour legislation and it was their constant and continued efforts to find a solution to the problem by the formation of a central organisation for uniform labour legislation which finally led to the foundation of the International Labour Organisation. Finally, the reports of the All-Parties Conference in 1928 of the Indian Statutory Commission and of the Federal Structure Sub-Committee of the Indian Round Table Conference as well as by far the major part of the evidence before the Royal Commission on Labour were in favour of central legislation.[1]

The decentralisation of legislative powers under the new Constitution, even with the reservation of concurrent power in certain labour questions, is in fact a retrograde step. The argument that there cannot be any uniform legislation in a vast and diversified country like India with differences in climate, race, creed and language, does not hold good in view of the fact that there are no such great variations as would justify the acceptance of differential standards in labour codes in different provinces, and the disadvantages arising

[1] *Report of the Royal Commission on Labour in India*, p. 459.

from the loss of central authority are much greater than the advantages to be gained by mere conformity to the particular local conditions, as indicated by the Royal Commisson on Labour.[1] Moreover, if in spite of much wider differences in geography, ethnography, demography and culture, over three score of nations scattered all over the globe have found it convenient and even necessary to agree to some common standards in labour legislation, as indicated by their membership of the International Labour Organisation, India, which is more or less a geographic unit and contains a large amount of cultural unity, cannot claim upon having separate standards for different provinces.

As a matter of fact, like custom and tariff, the labour question is essentially a central or federal subject, and the legislative authority should be exercised by the Central or Federal Government with the delegation of power to provincial Governments in purely local affairs, as was actually the case under the old Constitution. It is only a central authority transcending local boundaries that can take a long view in labour legislation, develop uniform labour codes and assure its continued progress. Moreover, with the direct control of legislation in natioal labour questions, the Central or Federal Government is also in a much stronger position to take active part in the elaboration of

Ibid., pp. 458 59.

international labour Conventions and to undertake international labour obligations.

Administrative Co-ordination

The second important series of problems relates to the enforcement of the law, which can be best achieved through the co-ordination of administrative systems. It implies several things, of which the most important are the following : (1) provision for efficient inspection ; (2) maintenance of uniform effectiveness in enforcement ; and (3) consolidation of labour subjects under some central authority for efficient working.

The first and most important problem of administration is the provision of efficient inspection which depends upon several factors, such as (1) a sufficient number of inspectors, (2) technical training of inspectors, and (3) appointment of special inspectors.

The insufficiency of the staff has been an important cause of deficiency in inspection, especially in the case of small and seasonal factories and small mines and plantations which are often scattered all over the country and away from industrial centres. Most of the provincial Governments have not sufficient funds for the employment of an adequate number of inspectors to reach such scattered undertakings. Moreover, the number of such undertakings is not large enough

to justify any undue expenditure. Such a condition is bound to remain until these industries are better developed and local Governments have greater financial resources. There has, however, been a gradual development of efficient inspection as indicated by increase in both number and competence of the factory inspectorate.

The lack of technical training on the part of many inspectors is still another obstacle for proper inspection. This is especially true in the case of *ex-officio* inspectors who have no technical knowledge as to the nature of their work. It has, however, long been the belief of some local Governments, *e.g.*, Assam Government, that inspection through Government officials, such as sub-divisional officers, who are on the spot, carries both the prestige and the suitability of such inspection, although they may not have any technical knowledge for it. Moreover, it is convenient and the only means of carrying out inspection of small undertakings which are located in out-of-the-way places.

The provision of special inspectors, especially women and medical men, to suit certain conditions is still another factor in efficient inspection. Due to the employment of considerable numbers of women in factories, it is necessary that there should be women inspectors, especially in the Presidencies of Bombay, Bengal and Madras, where large numbers of women are usually em-

ployed. Women inspectors are also required for organising crèches and other welfare works which are rapidly developing in many factories. Some of the provinces, *e g.*, the United Provinces and Bihar and Orissa, had in fact utilised the services of women doctors as honorary *ex-officio* inspectors. The Bombay Government even appointed a woman inspector as early as 1924, who is at present in charge of organising crèches throughout the province. Other provinces have found it difficult to undertake remedial measures under the present economic depression.[1] As far as the provision of medical inspection is concerned, the Royal Commission on Labour recommended the appointment of regular medical officers, either part- or full-time, and the granting of power to certifying surgeons to act as inspectors. In some provinces, *e.g.*, the United Provinces, the practice is in accordance with the recommendation, while others have fully or partially implemented the recommendation. The Government of Bengal has, for instance, appointed the full-time certifying surgeon to be an additional inspector of factories.

The maintenance of uniform effectiveness in the enforcement of the law is still a problem of administration. Reference has already been made

[1] Government of India, Department of Industries and Labour: *Report showing the action taken by the Central and Provincial Governments on the recommendation made by the Royal Commission on Labour requiring administrative action*, 1934, p. 108.

to the legislative aspects of administration under which rules, regulations and by-laws are made and orders issued by competent authorities. For the sake of maintaining uniform effectiveness in administration, it is desirable that the same Government which is responsible for a legislative measure should also undertake its administration, wherever possible. Moreover, the concentration of inspection under a single central authority is likely to lead to efficiency and economy, as has been actually the case in respect of the Mines Act, with very satisfactory results. But in respect of the Factories Act, the legislative power of which rested with the Central Government and administrative power with provincial Governments, there were great variations in the effectiveness of the enforcement of the law in spite of the direction and control exercised by the Central Government and occasional conferences of the factory inspectors of different provinces. The problem has been much more complicated under the new Constitution which grants concurrent power to provinces in factory and other legislation.

The last, but not the least, important question of efficient administration is the consolidation of all labour subjects under the expert advice and experience of an officer at the disposal of Government. At present labour questions in most provinces are dealt with by a secretary to a department who has no expert knowledge of the subject

nor is he employed in his position for a period long enough to acquire any. Labour subjects are also divided among several departments in both the central and provincial Governments. The Royal Commission on Labour, therefore, recommended the appointment of a Labour Commissioner, with headquarters in the chief industrial centre, in every province except Assam, who should be responsible for the administration of all labour subjects. Assam depending mostly upon emigrant labour should have a protector of emigrants and the Government of India has already appointed such an officer under the name of Controller of Emigrant Labour in Assam. The Labour Commissioner should be responsible for the publication of labour statistics, should have the right to enter all industrial establishments, should be generally accessible to employers and workers and should act as a conciliator in any industrial dispute.[1] The Government of Bombay appointed such commissioner on May 1, 1933, and the proposal is under consideration by other provincial Governments.

There should also be a commissioner of labour at the Central or Federal Government. The Government of India retains at present expert advisers on education and public health, though these subjects are essentially provincial, and there is no reason why there should not be also

1 *Report of the Royal Commission on Labour in India*, pp. 453-54.

an expert adviser or a Labour Commissioner on labour subjects in view of the fact that the Government of India has both exclusive legislative and administrative powers in certain labour subjects and concurrent power in several others. Moreover, the Government of India is also responsible for the ratification of International Labour Conventions and their application to national labour legislation. In addition to the duties of the administration of federal labour subjects, the commissioner of labour should also undertake the direction and supervision of the legislative and administrative systems in respect of labour questions in which various provinces and States have concurrent power. As a matter of fact, the provision for such direction and supervision has been made by Section 126 (2) of the Government of India Act of 1935, referred to above.

What is equally important is the creation of a separate ministry of labour in both the central and provincial Governments. At present, industry and labour are combined into one department of the Central Government and form only one of the several subjects entrusted to a minister in the provincial Governments. A country where 56·4 million persons or over one-third of the population gainfully occupied are workers deserves to have a separate department of labour for several reasons: (1) to supply adequate and efficient labour to organised industry ; (2) to take care of employ-

ment and unemployment of such labourers ; (3) to regulate the migration of labour, both inter-provincial and international ; and (4) to look after the moral and material welfare of such a vast body of the population. There is an urgent need of a labour ministry in the central or Federal Government and also in more advanced provinces such as Bengal, Bombay and Madras, though other provinces may have to wait until labour subjects gradually assume their importance. The creation of a labour minister will not only raise the dignity of labour and create greater public interest in the labour question, but also utilise the services of an entire department to the advancement of the moral and material welfare of workers.[1]

Development of Research

The development of labour research is still another problem concerning legislative measures. Labour legislation has a direct effect, both economic and social, not only upon employers and workers, but also upon the whole population and no enactment or amendment of an Act can be undertaken

[1] The creation of such a department in the provinces may be objected to on the ground of cost. But considering the benefit which such a department may confer on the province in the form of increased wealth and welfare, such cost is rather small. Moreover, the inaugura tion of provincial autonomy and the Indianisation of the ministry have been followed by considerable reduction in the salary of the ministers, especially in those provinces in which Congress forms the ministry.

without finding relevant facts on the question. The collection of such facts requires however special training and organisation. In order to be effective, these facts must be objective or impartial, authentic or based upon actual conditions, relevant and conclusive. Moreover, they must be collected by qualified experts and competent authorities so as to inspire confidence and command respect. It is only on such ascertained facts that the majority of legislative measures can be based and developed.

Reference has already been made to the statistics published by various departments. These statistics are insufficient for several reasons :—First, they do not cover all the industries in which considerable numbers of workers are employed, *e.g.*, plantation outside Assam, and non-regulated factories. Secondly, they do not cover the most vital sides of the worker's life, *e.g.*, wages, earnings and standard of living, thus giving little if any information on the real welfare of the worker. Thirdly, there is a lack of central authority, both provincial and national, for directing the collection and consolidation of statistical facts before they are published.

The Royal Commission on Labour realised these defects and made the following recommendations to remedy them, namely :[1]

(1) The Central Government should enact legislation enabling the competent authority to

[1] *Report of the Royal Commission on Labour in India*, pp. 443-50.

collect information from proper sources regarding wages, attendance, living conditions, prices, loans to workers, and rentals.

(2) Investigation of the humane problems of industry, such as the incidence of sickness, migration, absenteeism, and industrial fatigue, should be undertaken by Government, employers, and other agencies.

(3) Information regarding the income and expenditure of the family can be best collected by means of family budget enquiries ; these could usefully be undertaken by such agencies as universities and social and religious organisations.

(4) Among the other recommendations may be mentioned the following :—(*a*) the collection of statistics separately for perennial and seasonal factories ; (*b*) the amendment of the Factories Act so as to make it possible to call for returns on wages ; (*c*) the statutory collection of statistics from plantations regarding the labour forces employed, and improvement of the vital statistics for Assam ; (*d*) thorough family budget enquiries in Delhi, Madras, Cawnpore, Jamshedpur, and a centre in the Jharia coalfields ; and (*e*) the establishment of a Bureau of Labour Statistics in Bengal on a similar scale to that of Bombay, and also in other provinces as soon as circumstances allow.

Regarding the collection of statistical data, the Government of India appointed a special com-

mittee[1] in 1934 for drawing up a scheme of an economic census of India. Among other things, the committee recommended the organisation of statistics, measurement of national income, serial statistics in Government publications, and indicated the methods which should be adopted in collecting data. If fully given effect to, these recommendations would lay the scientific basis for the development of labour research in India.

An important factor for the development and organisation of labour research is the establishment of a labour bureau in each province as recommended by the Royal Commission on Labour. In veiw of the fact that Bengal employs the largest number of industrial labourers in India, the need for such a bureau becomes all the more important, but all other provinces, except Bombay which has already an efficient Labour Office, need such bureaux on a larger or smaller scale according to the local conditions. Reference has already been made to the need for a ministry of labour in each province, and the bureau of labour statistics will be the fact-finding organ of labour research on which the proposed ministry of labour can base its labour policy. Each

[1] The members of the committee were Dr. A. L. Bowley, Professor of Statistics, University of London, and Mr. D. K. Robertson, M.A., Lecturer in Economics, University of Cambridge. *Cf. A Scheme for an Economic Census of India*, New Delhi, 1934, p. 80.

province should also have a division of child labour and woman labour in the labour bureau.

What is more important is the establishment of a bureau of labour statistics by the Central Government. It should be the fact-finding organisation of the proposed ministry of labour in the Central or Federal Government for the Development of labour policy for the whole country. It should have various functions, namely: (1) it should summarise and publish the labour statistics of provincial Governments; (2) it should unify and consolidate the work of labour bureaux, and control the collection of material and the publication of the data; and (3) it should initiate labour research on important subjects and in particular localities, and also encourage research by private institutions or persons whenever feasible. This function is partially discharged at present by the intelligence department of the Central Government. But with the establishment of provincial autonomy and with the concurrent power in most phases of labour legislation, the provinces are liable to take divergent methods of collecting and publishing their data, unless there is established a unifying system under the control of the Federal Government. Moreover, legislation is also needed by the Federal Government to enable the competent authorities to collect material and to preserve uniformity in all such collections of provincial Governments.

Adaptative Legislation

The last and most important series of legislative problems is the continuous adaptation of legislative measures to the changing social and industrial conditions of the country. It consists of several things, namely: (1) the consolidation, as far as possible, of divergent provisions of similar and kindred labour laws in various industries; (2) the extension of the scope of the existing law to a larger number of similar but smaller undertakings; (3) the enactment of legislation for new industries; and (4) the improvement of existing law in the light of the technical progress of industry as well as of the rising needs of workers.

It has already been noted that specific legislative measures have been enacted in relation to each industry and with special reference to its peculiar conditions. Due to the differences in the nature and conditions of these industries, some of these provisions are bound to differ from one another, and the provisions for minimum wage, woman labour, hours of work and similar other questions cannot be the same for all classes of organised industry, such as plantations, factories, mines and communications. Although there is a tendency towards uniformity among the provisions of these measures, due partly to the influence of the International Labour Organisation and partly

to the increasing importance of general legislative measures covering workers in all industries irrespective of the nature of occupation in which they are employed, some of these differences are bound to remain. But if these various legislative problems are approached from some fundamental principles and certain definite aims, there may be some uniformity in these measures in essential matter, although differing in details and non-essential matter. What is needed is a comprehensive plan for the development of a national labour policy as noted above, which could be applied to each industry, whenever necessary, with some variation in accordance with its special needs.

Another important question is that of widening the scope of existing legislative measures to a larger number of undertakings, especially non-regulated factories or those factories which are still outside the scope of the Factories Act. They are of two different kinds, namely :—(1) those which use power machinery but employ less than 20 persons ; and (2) those which do not use power machinery but employ a substantial number of labourers, sometimes amounting to more than 50 persons. The Royal Commission on Labour recommended the application by local Governments of the whole or part of the present Act with reference to the factories of the first category and the enactment of a new, separate and simple Act with reference to the latter. The first recommendation

if given effect to will scarcely raise any serious problem, as the Act so applied will have the same effect in all the provinces. As to the second recommendation it may be asked whether or not the Acts of different provincial Governments will have anything common among them as far as the control of such industries is concerned.[1]

The importance of enacting legislation for regulating conditions of work on plantations has also long been felt. An industry which employs a daily average of about a million workers and accommodates within its precincts or surroundings almost twice as many cannot very well be left alone without undertaking proper legal measures. At present plantation legislation relates directly only to those measures which control the recruitment and forwarding of labour from place of birth to place of work in Assam tea-garden, which alone depend upon Government for the recruitment of their labour force. Since this recruitment involves inter-provincial migration, the present legislation for emigration is a concern of the Central or Federal Government.

The regulation of the labour conditions on plantations if undertaken will be a provincial subject and raise a twofold problem :—first, the question of maintaining uniformity in legislative measures among the provinces and also between the pro-

[1] *Report of the Royal Commission of Labour in India*, pp. 93-100.

vinces and the States inasmuch as plantations are widely distributed in both of them. One thing in favour of achieving uniformity in plantation legislation is that planters are the most thoroughly organised in the whole of India and they may not object to uniform legislation throughout the country. Secondly, plantation industries relating to tea, coffee and rubber differ so much from one another that they cannot be brought under one legislative measure without finding common formula to serve as the basic provisions. Separate legislation for each plantation industry is impracticable in view of the fact that some of the provinces and the States have only one main plantation industry and they will scarcely be induced to undertake separate legislation for workers in other plantation industries in which the number of the workers may be insignificant. Such a common formula has however been found by the State of Cochin which has taken the first step in plantation legislation and regulated labour on all kinds of plantations by a single measure. Other States and provinces may undertake similar measures, but a central authority to co-ordinate the basic principles of these measures still remains to be provided for.

Finally, there is also the question of improving existing labour legislation through constant amendment or even re-enactments :—First, with the development of new technique and the invention of new devices for avoiding accidents and securing

general health, there is a constant need of improving provision for health and safety. Secondly, increasing speed and the necessity of closer attention to the complicated machine processes also require larger relaxation and shorter hours of work. Thirdly, the increasing productivity of industrial enterprise and the rising social wealth also entitle workers to a larger share of national dividend. Lastly, the growing desire on the part of workers to take more active part in the moral and intellectual development in the exercise of political right and in the discharge of civic duties, and in the enjoyment of social privileges, requires changes in working and living conditions. It is therefore essential that labour legislation should be amended to make the places of work healthier and safer, the hours of work shorter and the standard of living higher, thus granting workers more opportunity to the increasing amenities of life.

National Labour Council

An important means of securing progressive labour legislation is the close contact of the representatives of employers, employees, the public and Government for arriving at some agreed plan of labour measures. While representative Government offers chances to all parties for the expression of their opinions on any measures in the process of

enactment, there is no institution where they can meet and formulate any policy of permanent importance and develop some common schemes. The necessity of such an institution becomes all the more important in India, where labour is inarticulate and lacks any proper means of making their grievances known to the public. Moreover, the geographical vastness of the country, the complexity of racial and cultural differences and the divergences in constitutions as represented by the central and provincial Governments as well as by Indian States, makes such an institution extremely desirable.

The Royal Commission on Labour has in fact recommended the constitution by statutory measure of an organisation under the auspices of which the representatives of employers, workers, Governments and a few nominated non-official members, including at least one woman and one or two economists, should meet annually in conference in some industrial centre, under a president elected at each annual session, and discuss labour measures and labour policy. There should be a responsible officer to act as secretary to the council during the conference and to be responsible to it for current business throughout the year. The representatives of employers and workers should be equal in number and should be elected respectively by employers' associations and registered unions, in the absence of the latter Government nominating workers'

representatives. The votes of the council should be recorded separately in three groups, namely, employers, workers and others. The decisions of the council should not be given mandatory power, as that would mean the abrogation of the power invested in the legislature, but in certain circumstances it might be obligatory for provincial Governments to submit within a specified time proposals for legislation to their respective legislatures for a decision as to their adoption or rejection.[1]

The recommendation of the Royal Commission has been based on the analogy of the International Labour Organisation, under the auspices of which Governments', employers' and workers' representatives meet in conference every year as described above. The success of the International Labour Conference indicates that a similar organisation on a national basis may also be organised in India. But instead of calling it "national industrial council as suggested by the commission" which is too general, it would be preferable to call it "national labour council" which conveys a more concrete idea of its function. Moreover, whenever similar councils are formed in important provinces and States, such councils may

[1] *Report of the Royal Commission on Labour in India*, 1931, pp. 467-71. According to the Commission, there should be 57 members, including 17 each from employers and employees, 13 from Government, 4 from non-official members, and 3 each from railways and railway employees.

be designated by that province or State, such as Bombay Labour Council or Mysore Labour Council.

There should also be some modification in the organisation of the council. In the first place, the number of non-official members should be increased almost to the same strength as to that of Government members, provided that their combined strength may not exceed that of employers or workers separately. But what is more important is that instead of being nominated by Government, they should be selected by different public organisations, such as the Indian Economic Association, Indian Statistical Association, Indian Medical Association, All-India Women's Association and Social Service League[1] which take vital interest in social welfare. The importance of such a representation cannot be minimised. It will have the double benefit of having advice from experts and also of getting them interested in different phases of the labour question. It will also add to the impartiality, prestige and even efficiency of the council. Moreover, it will facilitate the creation of a new social consciousness and an intelligent public interest in the labour question.

In the second place, as soon as the Federal Government comes into being, the representation to the Council should consist of both the British provinces and Indian States on the basis of their

[1] In case there is more than one league, they should be pooled together to select their representatives.

respective representation in the Federal Legislature and in a proportion similar to that suggested by the Royal Commission. Such an organisation will be specially useful in the application of International Labour Conventions and the unification of labour legislation throughout the country, thus eliminating regional rivalry and leading to the growth of a national labour policy.

Finally, there should be a standing committee to guide the work of the council and a permanent secretariat or bureau to carry on the work of the council under the guidance of a chief preferably the labour commissioner as envisaged by the Royal Commission. The main work of the bureau would be the preparation of the agenda and the draft proposal for consideration by the conference, interested parties and the public in general. To this must also be added the duties in connection with other functions of the council. After a successful experiment by the national labour council, provincial and even state labour councils may also be established, beginning with the most advanced provinces, such as Bengal and Bombay. In such a case, the consolidation of the activities of different provincial and State labour councils would also fall upon the bureau of the national labour council.

The National Labour Council should work purely in an advisory capacity, but should have certain functions which may, on the basis of recommendations of the Royal Commission, be defined as

follows :—First, the promotion of a spirit of co-operation and mutual understanding among different groups and the provision of opportunity for the interchange of information regarding experiments in the development of labour interest. Secondly, the examination and initiation of proposals for labour legislation which should, except in the case of urgency, be ordinarily considered at two successive sessions of the council, the first preparing the draft proposal for eliciting the opinions and criticisms of the public and interested parties, and the second, taking final decision. Thirdly, their advice to the central, provincial and state Governments (after the inauguration of the Federal Government) for the framing of the rules and regulations under different legislative measures. Fourthly, similar advice to the central, provincial and state bureau regarding the collection of statistics, the consolidation of the works of provincial and state councils and the co-ordination and development of labour research, both official and non-official throughout the country, with special reference to wages, income, family budgets, housing and similar other questions. And, finally, the advice to the Government of India on the question of ratification of draft Conventions and adoption of Recommendations of the International Labour Conference, thus serving as a connecting link between India and the International Labour Organisation.

CHAPTER V

THE SOCIAL SIGNIFICANCE

In the foregoing pages the growth and procedure of Indian labour legislation have been briefly described and its principles and problems discussed. In conclusion, it now remains to summarise the legislative achievements in the form of various labour codes and to show their significance on the welfare of the working classes and on the progress of society in general.

1. The Rise of Labour Code

It has already been noted that, although labour legislation in India began in the middle of the last century, the progress made until the inauguration of the International Labour Organisation in 1919 was rather slow. Some of the most important legislative measures, including amendments and enactments, were undertaken only after the Royal Commission on Labour had made its report in 1931. The origins of the different series of legislative measures may be dated as follows :— (1) labour under penal sanction in 1859, (2) Assam emigrant labour in 1863, (3) factory labour in 1881, (4) mining labour in 1901, (5) dock labour in 1923, (6) labour on board ship in 1923, (7)

workmen's compensation in 1923, (8) trade union in 1926, (9) trade dispute in 1929, (10) maternity benefit in 1929, (11) railway labour in 1930, and (12) protection of wages in 1936.

Some of these measures, especially those providing penal sanction, have been repealed and most of the other measures have been amended and re-enacted. Although still imperfect and inadequate in many respects, labour legislation has become an important social institution in India and has established some basic labour codes relating to recruiting and engaging, women and children, conditions of work, social insurance, protection of wages, social welfare and industrial relations. Moreover, adequate provisions have also been made for the enforcement of these labour codes.

Recruiting and Engaging

The first question of labour legislation is to regulate the condition under which labourers are recruited and also the system under which they are engaged. In spite of its immense potentiality, labour supply to organised industry proved, especially in the beginning, to be quite inadequate due to a two-fold reason: (1) the immobility, ignorance and inability of workers to seek employment outside their immediate neighbourhood; and (2) the lack of concerted action for recruitment on the part of employers. Most of the organised industries had therefore found it difficult to recruit

and engage their workers directly and depended on jobbers and *sardars* and other intermediaries for the purpose.

The greatest difficulty in the recruitment and engagement of labour was found by the tea gardens in Assam which, being located in isolated and often unhealthy hilly districts, have depended upon imported labour from the very beginning. The recruitment by professional contractors led to great abuses, to control which Government passed a series of legislative measures guaranteeing employers of the services of their labourers and providing at the same time steady work, sanitary conditions and fixed wages for labourers under the indenture system. Government has, however, abolished all penal sanctions for the employment of labour and made provision in the recent Act for the freer movement of labour, greater security of employment and better administration of the law.

The indirect system of recruiting and engaging labour in other organised industries, such as the cotton mills in Bombay and the jute mills in Calcutta, has given rise to several evils, including the exploitation of workers by their jobbers and foremen in the form of favouritism, corruption and bribery and has recently come under severe criticism, especially by the Royal Commission on Labour; a number of recommendations have been made but no adequate measures have yet been

taken by Government to cope with the problem, although employers themselves have been awakened to the necessity of eradicating these evils and have adopted different measures.

Women and Children

From both historical and sociological points of view, the most important labour codes are those concerning women and children. From the very beginning of the tea garden industry in Assam, children under 16 years of age had been free from any penal sanction under which both men and women were employed. But there was also a system of pledging children under 15 years of age—that is the mortgaging of the labour of such children by their parents or guardians in receipt of advances, especially in agriculture and domestic service, in many parts of the country, and recent legislation has made such pledging a criminal offence.

The principle of minimum age for admission into employment has been established in the case of factories, mines, docks and sea-going vessels under certain conditions. This minimum age has been gradually increased in the case of children employed in factories and mines and no child under 12 can now be employed in a factory, and none under 15 can be employed in a mine. Moreover, children seeking employment in a factory

must also produce certificates of physical fitness for such work. Their work at night and in dangerous occupations has been prohibited in all factories and their hours of work have been reduced in both factories and mines. A special feature of child labour legislation in India is that children between 12 and 15 may not be employed in factories for more than half the time fixed for adults, which practically amounts to five hours a day under the present Act.

Recent legislation has also created a new class of protected young persons or adolescents between 15 and 17, who may not be employed in factories as adults or in underground work in mines without being duly certified by competent authorities as to their capacity for such work. Young persons under 18 may not be employed as trimmers and stokers, nor as other workers on board ship without medical examination for physical fitness.

Like that of children, the employment of women in factories and mines has been regulated and their hours of work reduced and night work prohibited. An anomalous condition of women workers was their employment underground in mines, but in 1929 steps were taken for their gradual elimination from such work, and by the revised regulations of 1936 no women is employed underground in mines from 1st October, 1937. Women have also been prohibited from employment in dangerous work in factories and

provisions have been made requiring factories employing fifty women or more to reserve a suitable room for the use of their children.

Conditions of Work

Conditions of work have been gradually improved on plantations, in factories and mines, on railways and on board ship. Sanitary conditions have been gradually improved and death rates reduced in most of the tea gardens in Assam, but much yet remains to be done against the prevalence of malaria, hook-worm and other devitalising diseases, especially in small out-of-the-way gardens. Some of the larger and newer factories are well equipped with up-to-date sanitary arrangements, although the conditions in small and seasonal factories are far from being satisfactory. Provisions have also been made prescribing standards of artificial humidification and protection against excessive heat as well as for adequate shelter during rest periods in larger factories. Ventilation is sufficient in coal mines, although much room has been left for improving sanitation. These sanitary measures have been followed by safety provisions in both factories and mines. The hours of work have been gradually reduced in factories and mines, on railways and on board ship. Weekly holidays and rest periods have been established in most industries working under legislative control.

Two classes of industrial enterprise are, however, still outside legislative regulation Except in Assam, where labourers received certain protection as immigrants, plantation labour is as yet immune from any statutory regulation. A beginning has, however, been made in the regulation of plantation labour by the Indian State of Cochin. Moreover, there is an increasing number of unregulated factories, that is factories which either use power machinery but employ less than 20 persons or do not use power machinery but employ substantial numbers of workers and are, therefore, outside the scope of the Indian Factories Act. Some of these factories have been brought under regulation by local Governments, which have been granted power, under section 5 (1) of the Indian Factories Act for the purpose, but by far the majority of these factories still remain unregulated. The first step in the regulation of these factories has, however, been undertaken by the Government of the Central Provinces, which has enacted the Unregulated Factories Act in the case of factories employing 50 persons or more but not using power machinery.

Social Insurance

Social insurance is still in the infant stage of development in India and is represented only by two series of legislation, namely, the Workmen's Compensation Acts and Maternity Benefit Acts.

The former, although introduced only in 1923, has made considerable progress and brought under its scope most of the organised and a number of semi-organised industries covering about 6 million workers. The maternity benefit legislation has been undertaken by provincial Governments and up to the present only three major provinces and two local Administrations have passed the Maternity Benefit Acts. But the growth of organised industry and the breakdown of the old social institutions, such as the joint family system, have created such conditions as call for the extension of social insurance in such phases of industrial and social risk as sickness, old age and unemployment.

Protection of Wages

The question in which the workers are vitally interested is that of wages and income. They are however, complicated inasmuch as they are still outside the scope of labour legislation. But the methods and periods of payment can be regulated by Government and the Payment of Wages Act, which was passed in April, 1936, prescribes a time limit before which wages should be paid and prohibits fines in the case of children under 15 years of age, and also fines and deductions, except under authorised conditions, in the case of adults, and even provides machinery which will enable labourers to get their wages without compelling them to go to the costly and dilatory machinery

of ordinary law courts. Attachment of wages for collecting debt, imprisonment for debt and liquidation of debt, and intimidation and molestation for the recovery of debt have also been brought under regulation by both the central and provincial Governments.

Social Welfare

Social welfare has been found a suitable method of increasing the amenities of life to working classes in most advanced countries and becomes of special significance to India because of the social and economic backwardness of the people and the low wages and illiteracy of the working classes. But the employers who have undertaken welfare work are very limited in number and the trade unions and private agencies engaged in similar work are still fewer. It has thus become the duty of Government to encourage and even to undertake welfare work for the benefit of workers.

The first need of workers' welfare in India is the provision for sanitary and cheap housing accommodation, to the lack of which may be attributed a number of evils. The Government of India has only taken the first step by legislating for the acquisition of land by employers and it has become the duty of provincial Governments, as well as municipalities and other local bodies, to implement the provisions of the Act and to carry out other recommendations of the Royal Commission on Labour.

Closely connected with housing is the question of public health, which is absolutely a question for local and municipal Governments to solve and the first step in this direction has also been taken by a few provincial Governments. As far as other phases of social welfare are concerned, only a few municipalities have taken any action in providing free and compulsory education and in creating cultural and recreational facilities.

Industrial Relations

A complicated question of labour legislation is the establishment of amicable relations between employers and employees, especially in India where trade unionism has made very little progress. It is only strong unionism which can enable industrial workers to continue any negotiation with employers for collective bargaining, and influence, by their representation or otherwise, local and national legislatures for improving their working and living conditions. The Trades Union Act of 1926 has established the legal status of trade unions, which has scarcely been recognised by employers. What is still more difficult is to establish the methods of conciliation and arbitration between employers and workers and the present Act of the Government of India of 1929 and that of the Government of Bombay of 1934 have laid their foundations, although both of them have left much room for improvement. An important step has also been

taken by the Government of India in its amending Bill, now under consideration, to remove some of the defects of the Act of 1929.

Observance of the Code

What is more important is the observance by both employers and workers of the different labour codes, without which labour legislation has absolutely no value. Reference has already been made to various provisions by legislative measures for the enforcement of the law. The scope of inspection has been gradually extended and both mining and factory inspectors have been granted powers to prohibit, in case of any impending danger, the use of machinery or the operation of a factory or mine or parts thereof, until the necessary repairs have been effected and the danger eliminated.

Inspection, although inadequate in the beginning, has been gradually improved, especially in the case of mines and larger factories, although much yet remains to be done in providing sufficient inspection in the case of small and seasonal factories and in improving special training of certain inspectors. Records of prosecutions and convictions also indicate that attempts are being made by inspectors to enforce the provisions of the law.

The significance of the labour code does not, however, depend upon efficient inspection or a large number of convictions. The main test of

the code is whether the majority of a group of the population, to which it applies, is consciously or unconsciously inclined to act according to its dictates. The real success of the code is, in fact, indicated by its becoming a subconscious part of group behaviour. Judging from this point of view, most of the labour codes might be said to have become fairly established in the social habits of most employers and workers.

2. LEGISLATION AND SOCIETY

An outstanding feature of modern society is that it has become more and more self-directive. Although by far the majority of human activities spring from emotional and volitional sources and remain unconscious and unknown, society has, through mass education, cultural diffusion and political suffrage, become more and more self-conscious. In modern times most of the social ends are wholly or partially realised and adequate means are adopted for their achievement.

Social ends naturally differ from country to country but they are based upon some common interests in life such as health, wealth and happiness. There is a variety of institutions through which these ends are realised, such as *mores*, custom, law and religion. But with the development of modern industrial society, the separation of the Church from the State and the extension of the function of the modern State to include peoples of

various creeds, races and cultures, legislation has become one of the most important institutions for the realisation of social ends.

With the growth of social activities, legislation has also enlarged its function. Instead of merely playing a negative rôle and controlling some social situation, which was found to be detrimental to the welfare of the community, *e.g.*, preserving peace and order, as in former days, legislation has assumed its positive aspect and become more and more an important means for the realisation of collective purpose or common good. In a progressive community, legislation is the transformation of the potential energy of public opinion into the dynamic force of public will. In its positive aspect, legislation is thus the co-ordination of social forces for the realisation of social ends, or the expression of social life in a desired direction. Legislation has thus become an important social process and a chief means of social achievement.

Labour Legislation as Social Process

One of the most important series of legislation in modern society is that of labour, to which belongs an increasingly large number of the population in an industrially developed country. It must be noted that modern industrialism has come into existence through the process of industrial evolution. The introduction of high power

machinery and complicated industrial organisation into the productive system has given rise to large-scale industrial enterprise. Modern industrialism has saved society from drudgery and introduced a highly efficient system of production, and so long as it is more economical than other systems, it is bound to remain. But in spite of its benefits, modern industrialism is not without its defects and has brought along with it certain evils such as industrial accidents and occupational diseases, economic insecurity and unemployment, excessive hours, insanitary housing, and congestion and over-crowding. These physical discomforts have often been followed by moral turpitude and spiritual stagnation.

There are several agencies for the solutionof these problems, namely :—(1) employers, (2) workers, (3) philanthropists, and (4) Government. A few employers may undertake welfare work and some employers' associations may also come to a common agreement on some measures of welfare, but in this age of national and international competition, it is difficult for them to devise any means of enforcing these measures upon all employers without any superior authority. As far as workers are concerned, they are in a worse position than employers. They lack the power of concerted action, and, even when organised, they are scarcely in a position to make effective demand upon employers for undertaking safety,

sanitary and other welfare measures. Moreover, both employers and workers are often ignorant of the technicalities involved in some of these precautionary measures. Philanthropists may undertake the remedy of some of these evils, but they have neither the power nor the means of removing the underlying causes, especially in India where organised charity is still in its infancy. It has thus fallen upon Government, which is the organised agency of the general public, to remedy some of the defects of modern industrialism by labour legislation.

Like industrialism, labour legislation has also come into existence through the process of industrial evolution and forms an integral part of modern society. Its organic nature is also indicated by the fact that it is a continuous process of growth and always adapts itself to the changing conditions of society. Arising from the simple control of child labour in factories in Great Britain in the early nineteenth century, labour legislation has extended its scope to include men and women in almost all organised and semi-organised industries, as well as in many other aspects of modern industrial life, and has thus become a most vital institution in modern society and a most important process in social evolution.

Lalour legislation is, in fact, the most important means of solving some of the outstanding labour problems. The function of labour legislation is

threefold, namely :—(1) protection or social justice, (2) mediation or arbitration, and (3) amelioration or progress. One of the prime objects of the State is the administration of social justice or the development of protective measures, which implies, in connection with labour, the establishment of some basic and minimum standards of age of employment, health, safety, hours, wages, and even housing. Moreover, the universal application and the enforcement of the law and the appointment of the adequate inspectorate for the purpose are entirely within the jurisdiction of the State function. Mediation or arbitration is the duty of Government in all democratic countries, where the people enjoy the freedom of association and employers and workers organise themselves into associations or unions for the advancement of their group interest ; but whenever there is a conflict between these two classes threatening the peace and prosperity of society, Government has the right to interfere and even to use compulsion for a settlement for social benefit. Finally, it is also the duty of Government to improve the moral and material welfare of workers by labour legislation or other means so as to achieve the progress and prosperity of society in general.

Legislation as a method of solving labour problems is not without its disadvantages. It depends mostly upon the nature of Government for an adequate solution of most of these problems.

It must be remembered that the institutions of slavery, serfdom and the indenture system, including all penal sanctions had long been sustained by legal authorities. Government policy generally reflects the dominant class interests, which are represented by the capitalist class in modern society. Most of the labour codes are agreed plans and are arrived at by compromise among employers, workers and Government, and fulfil, in most cases, only the minimum requirements and establish only the basic standards for life and labour.

In spite of these defects under the present system, Government is the only supreme authority for the solution of the most important labour problems. Moreover, the present system of Government is by no means unchangeable. As a matter of fact, with the growth of democracy, workers have gained power in legislation and even the control of Government in some of the advanced countries. In India, labour interests have received recognition and their representatives exert great influence upon labour legislation. What is more significant is the fact that under the new Constitution, which has already established provincial autonomy, labour interests have received increased representation in both central and provincial Governments. The efficacy and effectiveness of labour legislation depend, therefore, upon the increasing power of workers for collective bargain-

ing, for the exercise of political power and for the effective demand for a more equitable share in the ever-growing wealth and welfare of society, of which they form an important and integral part.

Labour Code as Social Achievement

The most important achievement of labour legislation consisting of acts, rules, regulations and by-laws, is the rise of the labour code, or the sum total of the rights and privileges which workers have achieved regarding working and living conditions, relationship with employers and social and political status in modern society. They form the landmarks in their onward march for the betterment of their social, political and economic conditions.

Society is in a constant state of change, especially in this dynamic age, when discoveries and inventions follow one another in quick succession, science, philosophy and art make constant progress, and personal aims and ideals, and social attitudes and values undergo rapid transformation. While these changing aims, ideals, attitudes and values are the motive forces, social progress is indicated by the readjustment of social institutions and the rise of new social habits or new relationships among various social classes. All great historical events, such as the Renaissance, the Reformation, the Industrial Revolution and the French Revolution, have been followed by the

complete reorganisation of society and the rise of new patterns of social behaviour. In these constant changes in cultural achievement and social readjustment, all social classes strive for the preservation of their rights and privileges and even for the betterment of their class interest, but the real progress of society is indicated by the rise of new social habits which give greater opportunities for self-expression to a larger number of the population.

The most important effect of the Industrial Revolution is the rise of new social classes, of which by far the largest are the wage workers in all industrially advanced countries. Although their conditions of life and labour are still far from being perfect, workers have made definite progress in the betterment of their social, political and economic conditions and established their claim upon free education, universal suffrage, freedom of association and collective bargaining. In fact, within a space of a century and a half, workers in most countries have emerged from serfdom into free citizenship with well established industrial status, distinct political rights and recognised social privileges, to the achievement of which the labour code has often played an important part.

The importance of the labour code does not lie, however, upon the creation of new status, rights and privileges alone. What is more significant from the point of view of society is the education

and training of a vast mass of population in industrial discipline, as well as in political solidarity and social ethics, as indicated by the rising sense of duty and obligation to industry, society and Government. Organised industry itself calls for the spirit of co-operation and mutual dependence by the necessity of co-ordinating the efforts of all for a common aim in the modern system of production. Moreover, large-scale production, complicated process, scientific management, and continuous speed encourage the development of such qualities as punctuality, promptness, dexterity, application, steadiness and ingenuity, some of which are indirectly brought about by the labour code.

The direct effect of the labour code is indicated by the rising sense of collective responsibility undertaken by each for the safety of all against industrial risks from the high power machinery and the complicated industrial system. But the most significant effect of the labour code is the growth of self-discipline, sacrificing spirit, strong determination and organising power, as required by sustained efforts for party discipline, trade unionism and collective bargaining. The effects of the achievement of these qualities are not confined to economic gains alone, but they have given workers a new status in society and a new power in Government. Labour exercises a great political influence, not only in the small States of Sweden and Norway, but also in the Empire states of Great Britain and France.

No country is in greater need of the labour code than India. The establishment of a new code by legislative measures is important from several points of view, social, political and economic. First, although slavery and serfdom as legal institutions have passed away in India, as in other countries, the vestiges of them are still to be found in different parts of the country and, what is still worse, vitiate personal relationship between employers and workers. Secondly, India is a conglomeration of races, castes and creeds, and organised industry has to recruit its workers from all kinds of occupations, such as farm and casual labour, agriculture, arts and crafts, and village service or menial labour, thus showing the need of a common basis on which all classes of workers, irrespective of social and occupational differences, can meet for the advancement of their common interest. Finally, India has been emerging from self-sufficing village economy into national and international economy and adapting itself to modern industrialism, which has come from outside rather than grown from inside The great discrepancy between the labour required by organised industry and that which can be supplied by the generality of the Indian population shows the need of the common code for the development of physical fitness, mental aptitude and industrial discipline in the new industrial system.

What is still more significant is the fact that although the benefits of the labour code are more

or less confined to the workers in organised industry, they set up a new example to other working classes for the achievement of these benefits and for the improvement of their social, political and economic conditions. The importance of the gradual extension of labour legislation to wage workers in less organised industries and even to unorganised or agricultural occupations, cannot be overemphasised, but in the meantime the labour code in organised industry is not without its great influence upon other classes of wage workers. Agricultural labourers in the neighbourhood of industrial towns have already demanded, and in many cases succeeded in achieving, shorter hours and higher wages.

While the labour code supplies only the minimum standard of life and labour to an increasingly large number of the population, the problem of more equitable distribution of other amenities of life, such as national wealth, political rights, social privileges and cultural achievements, still remains to be solved. The development of a national labour policy and of a permanent class of industrial workers is an important step in that direction. India must realise that the increasing purchasing power, enlightened citizenship and educational and cultural development of wage workers who form an increasingly large number of the population are essential conditions for her industrial, political and social progress.

APPENDIX

Congress Labour Programme [1]

The most important step towards the development of a national labour policy has been undertaken by the Indian National Congress, [2] which has formed the Congress Ministry in seven out of eleven provinces, such as Bombay, Madras, the United Provinces, the Central Provinces, Bihar, Orissa and the N.-W. Frontier Province, covering over two-thirds of the population in British India. [3] Congress not only represents Indian nationalism and aims at the establishment of the *swaraj* or self-government, but also takes great interest in the social and economic development of the country and especially in the moral and material welfare of the masses including peasants and workers. In one of its resolutions on fundamental rights, Congress has declared that " the State shall safeguard

[1] The Congress Labour Programme was drawn up after the Author had completed his treatise, but owing to the importance of the subject in th development of a national labour policy, he has decided to include it in an appendix.

[2] It was founded in 1885 with a view to consolidating the political sentiments of the people into national unity. Since then it has changed both its objects and methods. At present it counts over 3 millions persons among its adherents.

[3] Congress obtained absolute majority in the first six provinces, but a Congress Ministry has also been formed in the North-West Frontier Province.

the interests of industrial workers," and issued a manifesto in respect of industrial workers in the election of governmets in 1937 to "secure to them a decent standard of living, hours of work and conditions of labour in conformity, as far as the economic conditions in the country permit, with international standard, suitable machinery for the settlement of disputes between employers and workmen; protection against the economic consequences of old-age, sickness and unemployment and the right of workers to form unions and to strike for the protection of their interests."[1]

With the formation of the ministry in different provinces, it has been the aim of Congress to give effect to the election manifesto and Bombay, which is the most industrialised province in the country, has taken the lead in working out its programme for action. The object of the Government of Bombay is to assure to the worker a minimum living standard, security of service, alternative occupation in the case of unemployment, and opportunity to improve his social status. There are several lines of action which are under the serious consideration of Government.[2]

The Government of Bombay is examining the possibility of devising measures for setting up minimum wage-fixing machinery in certain industries. With regards to industries and industrial centres,

[1] *Labour Gazette*, August, 1937, p. 922.
[2] *Ibid.*, pp. 923-24.

which fail to provide a living wage to their workers, Government has decided to institute exhaustive enquiries with a view to determining how far wages in these cases fall short of the minimum budgetary needs of workers, to discover what circumstances are responsible for the inadequacy, and to ascertain ways and means of improving wages to a satisfactory level. Government also is considering the practicability of standardisation of wages by collective bargaining and passing legal measures to that effect.

The Government of Bombay intends soon to undertake the collection of statistics on unemployment and the registration of both the employed and the unemployed and also to set up employment exchanges in all important industrial centres. Government also proposes to explore the possibilities of alternative employment in home industries and, for that purpose has under consideration a scheme for extensive training of the employed and the unemployed for the pursuit of secondary occupations.

Social insurance is another important labour subject which is under consideration by the Government of Bombay and the department of labour is at present busy in collecting material which will help Government to decide what can be done to frame sound and workable schemes to conform Indian conditions. Government is also examining the feasibility of legislation for leave with pay during

period of sickness, which may eventually develop into sickness insurance.

The maintenance of industrial peace is still another project of the Government of Bombay. Government intends to promote legislation for the prevention of strikes and lockouts as far as possible. The legislation for this purpose should be based upon the principle that in case of any reduction in wages or change in labour conditions affecting workers, the facts and merits of each case should be considered, and also the avenues of settling disputes should be explored, either through the channel of voluntary negotiations, conciliation or arbitration or by the machinery of the law.

Among other measures which have come under the consideration of the Government of Bombay may be mentioned the following :—The amendment of the factory law, promotion of better housing, relief and avoidance of workers' indebtedness, education of working classes and prohibition in mill areas. The programme of other provincial Governments are not known, but all other Congress provinces are most likely to follow the lead of the Government of Bombay.

The Labour Committee of the All-India Congress Committee and the labour ministers of the Congress provinces had a joint Conference at Calcutta on 26th and 27th October, 1937. The Conference approved of the statement of labour policy adopted by the Government of Bombay and made

it the basis of discussion for detailed recommendation for action. The Conference realised the importance of laying uniform programme with regard to labour and suggested that the Congress labour committee and Congress labour ministers should meet from time to time to review the situation with regard to carrying out the labour programme.

The Conference also realised the necessity of adequate information on the labour question in the development of uniform policy and recommended the collection and publication of such information by the labour department in each province with regard to the cost of living, family budgets, wages and earning, trade unions, trade disputes and conditions of industry including profits. Moreover, Congress also recommended legislative measures for facilitating the collection of labour statistics, the extension of the labour law to unregulated factories, enactment of maternity benefit acts by those provinces where they do not exist, enquiry into the question of adequacy of wages in organised industry, labour exchanges, leave with pay during sickness, minimum wage-fixing machinery, machinery for the settlement of disputes, recognition by the State and employers of trade unions, the housing of labour, the scaling down of debts, hours of work, holidays with pay, unemployment insurance and the conditions of state aid to industries with regard to the treatment of labour.

The Congress labour committee also made the

following important recommendations for the consideration of the labour ministers in the Congress provinces :—(1) effective measures for the liberation of communities from the condition of semi-serfdom and for the rendering of assistance necessary to enable them to earn a decent livelihood as free persons ; (2) devising of plans for the relief of landless rural labourers from the distress of meagre wages and periodical and enforced idleness and for the supply of suitable occupations in rural development during periods of seasonal unemployment ; (3) the institution of an enquiry into the backward conditions of plantation and mining labourers with a view to evolving schemes of improving their conditions ; (4) the payment to women the same wages as to men for doing the same kind of work and the introduction of a suitable standard of wages for factory women in each province ; (5) effective measures for improving the conditions of work and increasing the rates of wages of the sweepers employed by municipalities ; (6) the setting up of canteens by employers on factory premises for the supply of wholesome food to workers during factory hours ; (7) the creation of all possible facilities by municipalities for the spread of education among the working classes ; and (8) the introduction of prohibition in all industrial areas.[1]

1 *The Hindu*, Madras, 27th October, 1937, pp. 10 and 12.

The outstanding feature of the joint conference of the Congress labour committee and the labour ministers of the Congress provinces is the realisation of the necessity of common action by all the provinces to maintain uniformity in labour legislation, which the author has so strongly advocated in the foregoing pages. For the maintenance of this uniformity, the conference has suggested periodical exchanges of view between the Congress labour committee and labour ministers of the Congress provinces. As to the actual working of this proposal, it may be pointed out that there is no statutory provision for such conference nor are all the provinces under the control of the Indian National Congress. For the success of such a conference, there is a need of organising a body like the national labour council with a statutory background and with a more elaborate representation of different interests and provinces, as discussed in this treatise. In spite of these minor defects, it must be said that the Indian National Congress has adopted a very progressive policy and drawn out a bold programme for action, which, when given effect to, will be a great help in ameliorating the moral and material welfare of the working classes.

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WORKS OF DR. R. K. DAS

(A few extracts from Opinions and Reviews)

I. FACTORY LABOUR IN INDIA

(*1*) *The Mysore Economic Journal* :

" This is about the first book of an independent student of Economics on Factory Labour in India. It is both comprehensive and critical. Mr. Das has done his work with scholarly care."

(2) *The Swaraya* :

" An excellent and timely book. A penetrating, accurate and comprehensive study."

II. FACTORY LEGISLATION IN INDIA

(*1*) *Dr. John R. Commons* (Professor of Economics, University of Wisconsin, in his introduction to the book) :

" This unusually extensive preparation for the study of Indian Factory Legislation, has given to the book an unusual value, not only as a study of a single country, but especially by way of the comparative legislation and actual factory practice

which he has had always before him. To the understanding of these economic, political and legislative problems this book is a valuable contribution."

(2) *M. Gadsby*, U. S. Bureau of Labour Statistics :

" It is an excellent presentation, clear, coherent, interesting and from the limited knowledge of the subject, I should judge that it is impartial."

III. HINDUSTANI WORKERS ON THE PACIFIC COAST

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(1) *The Times of India* :

" It is the first systematic attempt to bring together all the available information on the subject of plantation labour."

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" It is both comprehensive and accurate. It marshals the facts in admirable fashion and sums up the desiderata in plain and unmistakable terms. . . . Dr. Das has, as usual, written a stimulating and solid monograph."

(3) *The Calcutta Review* (Organ of the University of Calcutta) :

" This is an excellent piece of work. Dr. Das is the master of the labour problems of this country."

(4) *Indian Affairs* :

" We are inclined to regard Mr. Das's work as being a more valuable record of real conditions in

the tea plantations than the accounts given by the (Whitley) Commission."

(5) *Indian Journal of Economics* :

" Dr. Rajanikanta Das is a recognised student of the Indian Labour Problems and this study of plantation labour by him is worthy of study."

(6) *The Journal of the Royal Statistical Society* :

" The statements made and the conclusions drawn are based on ascertained figures, mostly derived from official sources, and evidently no pains have been spared to make the study exhaustive and impartial."

VII. THE INDUSTRIAL EFFICIENCY OF INDIA

(1) *The Mysore Economic Journal* :

" It is a well-knit and thoroughly readable volume. We have read it from cover to cover in about two hours—that is indicative of the quality of the writing and the manner in which the statistical data, with which the book is full, are dealt with in it. . . . We do not need to say more in recommending this brilliant little book to our readers, except to remark that Dr. Das has done a real service in bringing out this book at this moment, when the country wants constructive schemes of the kind he has put forward. . . . "

(2) *Indian Journal of Economics* :

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(3) *The Times Literary Supplement* :

" Dr. Das's survey of Indian industrial conditions is complete and searching. Many of his suggested remedies are shrewd and may be commended to those, his countrymen and others, for whom India's political difficulties and aspirations shadow her industrial needs."

(4) *The American Economic Review* :

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(5) *The Sociological Review* :

" The whole is interestingly arranged, the style is direct and forceful, and the aim is definitely constructive and patriotic."

(6) *The Servant of India* :

" A sound study and a great addition to economic thought."

VIII. WOMAN LABOUR IN INDIA

(1) *The Mysore Economic Journal* :

" The study of this is, in our opinion, a great desideratum in our publicists, if reform is to be made feasible. For this purpose, copies of this volume should be presented by the I.L.O. to at least every member of the Legislative Assembly and Legislative Councils in India and in the Indian States which have Assemblies and Councils, for the consideration of pressing public problems."

(2) *The American Journal of Sociology* :

" For a gripping, though completely objective and unemotional, picture of one phase of an industrial revolution in the making one cannot do better than read this material which Dr. Das has presented with scholarly and sympathetic insight."

IX. CHILD LABOUR IN INDIA

(1) *The Times of India* :

" Dr. R. K. Das is a keen observer of labour condition in India, and a series of articles from his pen has already been published in the *International*

Labour Review, the official organ of the International Labour Office. His latest contribution to the *Review*, recently printed in book form, is an exceedingly human study of child labour in India."

(2) *The People* :

" Dr. R. K. Das is well-known as a careful student of Indian labour problems, and his latest monograph is a useful addition to the works he already has to his credit. His usual method is a careful survey of the conditions as they exist, offering the minimum of comment, and he adheres to that in his latest work. At present one great difficulty for the reformer is that statistical data about existing conditions are not easy to get at. Dr. Das's endeavour has been to remove that difficulty. Child labour is one of the most important problems for the Indian reformer, and in this booklet Dr. Das presents the facts about it with his usual lucidity, care, precision and brevity."
